



February 12, 2021

The Honorable Chair and Members
of the Hawai'i Public Utilities Commission
Kekuanao'a Building, First Floor
465 South King Street
Honolulu, Hawai'i 96813

Dear Commissioners:

Subject: Docket No. 2018-0165
Instituting a Proceeding to Investigate Integrated Grid Planning
Submission of an Updated Framework for Competitive Bidding

The Hawaiian Electric Companies¹ respectfully request the Commission to review and approve the updated Framework for Competitive Bidding ("CBF") which is attached as Exhibit 2. The updated CBF is a result of the hard work and time put in by the Competitive Procurement Working Group ("CPWG") that is part of the Companies' Integrated Grid Planning ("IGP") process.

I. Request for Approval of Updated CBF

Consistent with Order No. 35569, issued on July 12, 2018 in the subject proceeding, the CPWG sought to identify areas for potential improvement and streamlining in the Commission's Framework for Competitive Bidding to reduce barriers to market participation and enable integration with IGP. The original Competitive Bidding Framework was adopted by the Commission on December 8, 2006 as part of Decision and Order No. 23121 in Docket 03-0372. While that document has served a valued purpose the last 14 years, it no longer reflects the current and future reality of procurements, including the technologies that need to be procured and the speed at which such procurements need to occur in order to meet the State's ambitious renewable energy goals. The Companies believe the revisions reflected in the updated CBF are a necessary modernization. With changes in technology and the natural evolution of the procurement process, the Companies feel that this updated CBF reflects current procurement practices while having the flexibility to accommodate future procurement-related developments.

Additionally, the cost recovery for the contingency plan costs and Independent Observer costs, in the event the Companies contract with the Independent Observer, have been clarified within the updated CBF. The update clarifies the costs that would be included for recovery and the possible mechanisms that may be used for recovery, which are material issues as the Companies

¹ The "Hawaiian Electric Companies" or "Companies" refers to Hawaiian Electric Company, Inc., Maui Electric Company, Limited, and Hawai'i Electric Light Company, Inc.

transition to the new Performance-Based Regulation framework being implemented pursuant to the Commission's Decision and Order No. 37507, issued on December 23, 2020 in Docket No. 2018-0088.

II. Summary of Exhibits

The Hawaiian Electric Companies submit the following exhibits with this transmittal letter:

- Exhibit 1: Evolution of the Updated Framework for Competitive Bidding
Provides a summary of the updated CBF.
- Exhibit 2: Updated CBF
Document submitted for Commission review and approval.
Developed in the Integrated Grid Planning - Competitive Procurement Working Group (CPWG). (Note that modifications to the cost recovery mechanism can be found in Sections III.C.6 and VII of the updated CBF.)
- Exhibit 3: Redline of existing CBF and updated CBF
Document showing the differences between the existing CBF and the updated CBF.
- Exhibit 4: CBF Change Summary Table
Highlights the CBF topics discussed in the CPWG meetings and the eventual outcomes.

III. Conclusion

Based on the foregoing, the Companies respectfully request that the Commission review and approve the updated CBF.

Sincerely,

/s/ Greg Shimokawa

Greg Shimokawa
Acting Director
Renewable Acquisition Division

Attachments

cc: Service List (with Attachments)

EXHIBIT 1

Evolution of the Updated Framework for Competitive Bidding

Exhibit 1

Evolution of the Updated Framework for Competitive Bidding

This Exhibit 1 provides background information regarding the updated Framework for Competitive Bidding (“CBF”) and covers the main CBF discussion points identified by the Competitive Procurement Working Group (“CPWG”).

I. Background

The original CBF was adopted by the Commission on December 8, 2006 per Docket No. 03-0372 under Decision and Order No. 23121 to govern competitive bidding as a mechanism for acquiring or building new energy generation in Hawai‘i. Integrated Grid Planning (“IGP”) – CPWG was one of the “ad-hoc working groups composed of subject matter experts to assist in key aspects of the IGP process, including developing market-based procurement processes.”¹ CPWG was tasked with establishing a fair, efficient, streamlined procurement process that facilitates the procurement of resources in alignment with Hawaiian Electric’s grid plans as identified through the IGP process. CPWG conducted fourteen meetings in which participants from the Hawaiian Electric Companies, the Commission, Consumer Advocate, independent power producers, various state and city agencies and other various stakeholder groups provided their insight into the current Hawaiian Electric Companies’ procurement process which, among other things, culminated in the formation of the updated CBF provided as Exhibit 2.

CPWG honed in on updating the CBF in the last seven working group meetings. In advance of each of these meetings, the Companies would identify specific sections of the CBF to focus on. The Companies would then send out draft CBFs that contained proposed redlines and comments on the areas of focus prior to the meetings. In the meetings, vigorous discussions took place where working group members debated the merits of the proposed changes. The Companies would take the feedback gained from the meetings and incorporate it into the draft that would be presented at the next CPWG meeting for further comments. CPWG members were also offered the opportunity to submit written comments within a week or two following the working group meetings. This method of feedback was integral to the development of the CBF as the Companies could consider specific language modifications from CPWG members. This cycle continued until all sections of the CBF were covered and all topics that were brought up in the CPWG meetings were deliberated. After the proposed final version of the modified CBF was vetted with the working group in July 2020, additional comments were received and the Company convened an additional working group meeting to discuss how such comments were addressed and any additional modifications.

II. Discussion Highlights

As noted above, the CPWG completed a comprehensive review of the CBF in its meetings. The central issues are highlighted below while the CBF Change Summary Table provided as Exhibit 4 includes a comprehensive list of topics that were covered, along with notes on the eventual outcomes. The CBF Change Summary Table also provides insight into the decision making process such as the

¹ Order No. 35569, Instituting a Proceeding to Investigate the Integrated Grid Planning Process, issued July 12, 2018 in Docket No. 2018-0165 at 15, referencing IGP Report at 17-18.

background regarding why a particular edit was or was not included in the final CBF. Overall, the approach that the CPWG took was to not be overly prescriptive with the revisions made to the CBF, but rather to align with the larger IGP process and allow for greater flexibility to accommodate non-generation technologies such as storage and non-wires alternatives, resulting in a document that will require less future updates even if processes or technologies change.

Major areas on which the CPWG focused its review included:

A. Clarifying the Contingency and Parallel Plans

One of the initial topics discussed in CPWG was the distinction between and the necessity of having both a contingency plan and a parallel plan as defined in the original CBF. To avoid confusion and to simplify efforts to reflect a more practical implementation of these original concepts, CPWG members have proposed to remove the parallel plan term from the CBF and incorporate any necessary concepts into the definition of the contingency plan. The result of these discussions can be seen in the modification of the “Contingency Plan” definition, the removal of the “Parallel Plan” definition, and the modifications made to sections such as II.D,1, II.D.2, IV.B., IV.D, VII.b and VII.C.

B. Grid Needs Analysis, Grid Needs and System Resources

The original CBF focused on the procurement of Generation, Generation Resources and Supply Side Resources identified through an Integrated Resource Plan (“IRP”). Since the IRP no longer provides the basis to direct procurements, as it was succeeded by the Power Supply Improvement Plan and now IGP, CPWG recognized the need to update the CBF to reflect a more fluid planning process due to advances in technology, new planning methods currently being used to identify resources needed to meet near and long-term energy needs, and utilizing transmission and distribution needs in the resource needs identification steps.

The IGP Solution Sourcing Process Diagram shows the Companies’ new process flow and identifies how new terms such as the Grid Needs Assessment², Grid Needs³, and System Resources⁴ will be utilized in the IGP process. The updated CBF describes the steps and process broadly to allow for more flexibility to meet the needs of the IGP Solution Sourcing Process. This was done purposefully to allow more flexibility as we move forward without the need to constantly update the CBF or to find ways to comply with the CBF if planning processes change in the future.

C. Long-Term RFP

Another topic that was brought up in CPWG and in other working groups was the need

² “Grid Needs Assessment” means the process step in the IGP where the technical analyses are conducted to determine the generation, transmission, and distribution grid service(s) needs to meet state policy objectives, reliability standards, among other goals, and presented to the Commission for review and approval or acceptance.

³ “Grid Needs” means the specific grid services (including but not limited to capacity, energy and ancillary services) identified in the Grid Needs Assessment, including transmission and distribution system needs that may be addressed through a Non-Wires Alternative. Grid Needs that are subject to the Framework generally does not apply to utility equipment (i.e., transmission and distribution infrastructure, flexible AC transmission devices, materials, etc.) that are normally procured through the utility’s procurement process for goods and services.

⁴ “System Resources” are the specific resources that will be acquired to meet the Grid Needs.

for a long-term RFP track, specifically for projects that have longer developmental timelines (8-12 year timeframe). The Companies acknowledge the issues discussed in the working groups and have included a long-term RFP track in the IGP Solution Sourcing Process Diagram. The topic of a long-term RFP was discussed in detail in the context of the CBF with the CPWG. Presently, the group believes that the CBF is broad and flexible enough to incorporate long-term RFPs and therefore has not proposed specific updates at this time, and will work together to address specific issues in these future procurements.

D. Interconnection and Procurement Scoping

A topic that was given a significant amount of attention was interconnection and procurement scoping. Many ideas were proposed and discussed to help address this issue.⁵ CPWG expressed that the information currently provided to assist with estimating interconnection costs still results in extra financial risk on developers who are not in control of all of the interconnection costs. Overestimating interconnection costs could lead to more costly projects than necessary, while underestimating such costs may call into question the viability of a particular project. CPWG debated the pros and cons of each of the options raised by the working group. However, like the Long-Term RFP topic, CPWG determined that it would be more effective to address interconnection and procurement scoping in the particular procurements rather than being overly prescriptive in the CBF. This will allow flexibility to implement multiple solutions and improve upon processes continuously versus being bound to only the one option included in the CBF.

While no changes were made to the CBF to address these issues, the Company took these discussions very seriously and looked for immediate ways these issues could be addressed in upcoming procurements.

First, the Company proposed a new approach in the CBRE Low to Moderate Income (“LMI”) RFPs on a trial basis. In these CBRE LMI RFPs only, the Companies have proposed to take responsibility for the construction of the company-owned interconnection facilities (“COIF”) which will eliminate the COIF costs from the RFP responses. Based on the feedback from these RFPs, this method could be applied to other RFPs going forward.

Second, the Companies have improved the quality of information provided in the RFP documents, such as Appendix H, where more detailed interconnection information should be helpful to proposers. While the Companies realize such steps will require more work during the RFP preparation stages, the Companies and CPWG members believe that the end result will be better and more competitive responses.

⁵ Possible solutions discussed with CPWG included: creating a savings incentive where the utility customers, utility and developers would benefit from interconnection cost savings; having bids exclude the cost of Company Owned Interconnection Facilities since developers have relatively little control over the utility’s design choices; requiring a Commission or independent third party approval confirming the interconnection costs are prudent; requiring bidders to obtain an initial high-level pre-bid interconnection estimate from the utility or an approved consultant which would provide a much more accurate number when compared to the current system; and providing developers with a menu of typical interconnection configurations.

Third, CPWG discussions suggested that while broadly scoped Stage 1 and Stage 2 RFPs gave developers great flexibility to determine many aspects of their proposal such as technology, size, and location, it also complicated the development of their Proposal response by requiring them to estimate customized and widely varying interconnection configurations. CPWG discussions contemplated what effect narrowing the procurement scope would be on the procurement results. The Lāna‘i RFP, which is a unique procurement seeking combined variable and CBRE generation, will provide a valuable opportunity to explore this concept. For example, in the upcoming Lāna‘i RFP: 1) offering pre-selected sites allows work to be done in advance such as community outreach and interconnection planning; 2) setting the technology up front means that more specific interconnection requirements can be provided, which may lead to reduced interconnection costs and the duration of any studies; and 3) specifying a site, size, and technology can streamline the overall evaluation process for proposers and the Companies.

Although the Lāna‘i RFP and CBRE LMI RFPs have not yet been completed, the Companies believe that they could serve as potential models for improvements in process and that further improvements and new ideas can be generated based on the results of such RFPs.

III. Conclusion

Consistent with its initial objectives, CPWG performed an in-depth analysis of the Companies' procurement process and the current CBF⁶. Based on this analysis, CPWG proceeded to develop an updated CBF provided as Exhibit 2. Details on changes made to the CBF, as well as brief summaries of the deliberations, can be found in the CBF Change Summary Table provided as Exhibit 4.

The Companies appreciate the time and effort expended by CPWG members over the course of the last two years. The hard work put in by CPWG members will play a big part in the Companies procurements as we work together toward the State's 2045 100% renewable energy mandate.

⁶ See Integrated Grid Planning Workplan, December 14, 2018 in Docket No. 2018-0165 at 70-72.

EXHIBIT 2

Updated Framework for Competitive Bidding

FRAMEWORK FOR COMPETITIVE BIDDING
 , 2020

STATE OF HAWAII
PUBLIC UTILITIES COMMISSION

Exhibit A

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STATE OF HAWAII
PUBLIC UTILITIES COMMISSION

FRAMEWORK FOR COMPETITIVE BIDDING
 , 2020

I. DEFINITIONS

As used in this Framework, unless the context clearly requires otherwise:

"Affiliate" means any person or entity that possesses an "affiliated interest" in a utility as defined by Section 269-19.5, Hawai'i Revised Statutes ("HRS"), including a utility's parent holding company but excluding a utility's subsidiary or parent which is also a regulated utility.

"Agreement" means an agreement or contract for an electric utility to purchase a System Resource from a third party, pursuant to the terms of this Framework.

"CIP Approval Requirements" means the procedure set forth in the Commission's General Order No. 7, Standards for Electricity Utility Service in the State of Hawaii, Paragraph 2.3(g), as modified by In re Kauai Island Util. Coop., Docket No. 03-0256, Decision and Order No. 21001, filed on May 27, 2004, and In re Hawaiian Elec. Co., Inc., Hawaii Elec. Light Co., Inc., and Maui Elec. Co., Ltd., Docket No. 03-0257, Decision and Order No. 21002, filed on May 27, 2004. "In general, [the] commission's analysis of capital expenditure applications involves a review of whether the project and its costs are reasonable and consistent with the public interest, among other factors. If the commission approves the [electric] utility's application, the commission in effect authorizes the utility to commit funds for the project, subject to the proviso that 'no part of the project may be included in the utility's rate base unless and until the project is in fact installed, and is used and useful for public utility purposes.'" Decision and Order No. 21001, at 12; and Decision and Order No. 21002, at 12.

"Code of Conduct" means a written code developed by the host electric utility and approved by the Commission to ensure the fairness and integrity of the competitive bidding process, in particular where the host utility or its Affiliate seeks to advance its own System Resource proposal in response to an RFP. The "Code of Conduct" is more fully described in Part IV.H.9.c of the Framework.

"Commission" means the Public Utilities Commission of the State of Hawai'i.

"Competitive bid" or "competitive bidding" means the mechanism established by this Framework for acquiring a future System Resource or a block of System Resources by an electric utility.

"Consumer Advocate" means the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, State of Hawai'i.

"Contingency Plan" means an electric utility's plan to provide either temporary or permanent solutions to address a reliability or statutory need (including, for example, the need to comply with reliability standards as discussed in Hawai'i Revised Statutes ("HRS") §§ 269-0141 through 269-0144 and with the State of Hawai'i's Renewable Portfolio Standards law, as codified in HRS §§ 269-91 through 269-95) as may result from an actual or expected failure of an RFP process to produce a project selected in an RFP or a viable project proposal (including any project not completed or delayed). The utility's Contingency Plan may be different from the utility's bid. The term "utility's bid," as used herein, refers to a utility's proposal advanced in response to a System Resource need that is addressed by its RFP.

"Electric utility" or "utility" means a provider of electric utility service that is regulated by and subject to the Commission's jurisdiction pursuant to Chapter 269, Hawai'i Revised Statutes.

"Framework" means the Framework for Competitive Bidding dated [REDACTED], 2020, adopted by the Commission in Docket No. [REDACTED].

"Grid Needs" means the specific grid services (including but not limited to capacity, energy and ancillary services) identified in the Grid Needs Assessment, including transmission and distribution system needs that may be addressed through a Non-Wires Alternative. Grid Needs that are subject to the Framework generally does not apply to utility equipment (i.e., transmission and distribution infrastructure, flexible AC transmission devices, materials, etc.) that are normally procured through the utility's procurement process for goods and services.

"Grid Needs Assessment" means the process step in the IGP where the technical analyses are conducted to determine the generation, transmission, and distribution grid service(s) needs to meet state policy objectives, reliability standards, among other goals, and presented to the Commission for review and approval or acceptance.

"IGP" or "Integrated Grid Planning" means an electric utility's planning process that aims to integrate the Grid Needs Assessment planning analyses with the sourcing of market-based solutions, which may include competitive bidding, to meet near and long-term customer needs.

"Independent Observer" means the neutral person or entity retained by the electric utility or Commission to monitor the utility's competitive bidding process, and to advise the utility and Commission on matters arising out of the competitive bidding process, as described in Part III.C of the Framework.

"Non-Wires Alternative" means an electricity grid project that uses non-traditional transmission and distribution (T&D) solutions, such as distributed generation (DG), energy storage, energy efficiency (EE), demand response (DR) and grid software and controls, to defer or avoid the need for conventional transmission and/or distribution infrastructure investments.

"Provider" means a System Resource provider that is not subject to the Commission's regulation or jurisdiction as a public utility including, for example, developers and aggregators.

"PURPA" means the Federal Public Utility Regulatory Policies Act of 1978, as amended.

"QF" means a cogeneration facility or a small power production facility that is a qualifying facility under Subpart B of 18 Code of Federal Regulations §§ 292.201 - 292.211. See also 18 Code of Federal Regulations § 291.201(b)(1) (definition of "qualifying facility").

"RFP" means a written request for proposal issued by the electric utility to solicit bids from interested third-parties, and where applicable from the utility or its Affiliate, to supply a future System Resource or a block of System Resources to the utility to meet the utility's Grid Needs pursuant to the competitive bidding process.

"System Resources" are the specific resources that will be acquired to meet the Grid Needs.

II. CONTEXT FOR COMPETITIVE BIDDING

A. USE OF COMPETITIVE BIDDING

1. This Framework applies to electric utilities regulated by and subject to the Commission's jurisdiction pursuant to Chapter 269, Hawai'i Revised Statutes and any participants in any competitive bidding process that this Framework is applied to.
2. Competitive bidding, unless otherwise determined by the Commission, is established as the required mechanism for acquiring System Resources necessary to meet the Grid Needs. The following conditions and possible exceptions apply:
 - a. Competitive bidding will benefit Hawai'i when it: (i) facilitates an electric utility's acquisition of System Resources in a cost-effective and systematic manner; (ii) offers a means by which to acquire new System Resources that are overall lower in cost, better performing or installed sooner than the utility could otherwise achieve; (iii) does not negatively impact the reliability and resilience or unduly encumber the operation or maintenance of Hawai'i's unique island electric systems; (iv) promotes electric utility system reliability by facilitating the timely acquisition of needed System Resources and allowing the utility to adjust to changes in circumstances; (v) is consistent with the IGP process; and (vi) is consistent with Hawai'i's renewable energy portfolio standards.
 - b. Under certain circumstances, to be considered by the Commission in the context of an electric utility's request for waiver under Part II.A.3, below, competitive bidding may not be appropriate. These

circumstances include: (i) when competitive bidding will unduly hinder the ability to add needed System Resources in a timely fashion; (ii) when the utility and its customers will benefit more if the System Resource is owned by the utility rather than by a third-party (for example, when system reliability or safety will be jeopardized by the utilization of a third-party resource); (iii) when more cost-effective or better performing System Resources are more likely to be acquired more efficiently through different procurement processes; or (iv) when competitive bidding will impede or create a disincentive for the achievement of IGP goals, renewable energy portfolio standards or other government objectives and policies, or conflict with requirements of other controlling laws, rules, or regulations.

- c. Other circumstances that could qualify for a waiver include (but are not limited to): (i) the expansion or repowering of existing utility generating units or other System Resources; (ii) the acquisition of near-term System Resources for short-term needs; (iii) the acquisition of power from a non-fossil fuel facility (such as a waste-to-energy facility) that is being installed to meet a governmental objective; (iv) the immediate acquisition of System Resources needed to respond to an emergency situation; or (v) the lack of a sufficient market to support a competitive procurement.
- d. Furthermore, the Commission may waive this Framework or any part thereof upon a showing that the waiver will likely result in the acquisition of a System Resource, leading to a lower cost to the utility's general body of customers, increase the reliability of a utility's system to the utility's general body of customers, facilitate the transition to renewable generation, or is otherwise in the public interest.
- e. This Framework does not apply to any procurements ongoing, any existing programs or tariffs, or any projects submitted for approval to the Commission before this Framework was adopted, such as the Kalaeloa Partners, L.P. 208 MW project (which is the subject of Docket 2011-0351), the Hu Honua Bioenergy, LLC 21.5 MW project (which is the subject of Docket No. 2017-0122), the Puna Geothermal Venture 46 MW project (which is the subject of Docket No. 2019-0333), the Paeahu Solar LLC 15 MW project (which is the subject of Docket No. 2018-0433) and projects selected pursuant to the utility's RFPs for Variable Renewable Dispatchable Generation Paired with Energy Storage (Docket Nos. 2017-0352 and 2019-0178).
- f. This Framework also does not apply to System Resources with respect to: (i) System Resources with a net output of 5 MW or less on the island of O'ahu, 2.5 MW or less on the islands of Maui and

Hawai‘i, and 250 kW or less on Moloka‘i and Lāna‘i; (ii) System Resources at substations and other sites installed by the utility on a temporary basis to help address reserve margin shortfalls or to enhance resiliency during emergency operations; (iii) customer-sited, utility-owned System Resources that have been approved by the Commission; (iv) System Resources under 1 MW installed for "proof-of-concept" or demonstration purposes; (v) extensions of an Agreement for three years or less on substantially the same terms and conditions as the Agreements and/or on more favorable terms and conditions if it can be demonstrated that the extensions are in the public interest; (vi) modifications of an Agreement to acquire additional firm capacity or firm capacity from an existing facility, or from a facility that is modified without a major air permit modification if it can be demonstrated that the modifications are in the public interest; and (vii) renegotiations of Agreements in anticipation of their expiration, approved by the Commission.

- g. When a competitive bidding process will be used to acquire a future System Resource or a block of System Resources, the System Resources acquired under a competitive bidding process must meet the needs of the utility in terms of the reliability of the System Resource, the characteristics of the System Resource required by the utility, and the control the utility needs to exercise over operation and maintenance of such System Resource in order to reasonably address system integration and safety concerns.

3. The procedure for seeking a waiver is as follows:

- a. For all proposed projects included in, or consistent with, identified Grid Needs developed through a Grid Needs Assessment that have not yet been filed with the Commission for approval or acceptance as of the effective date of this Framework, and are subject to the Framework pursuant to the terms set forth herein, any waiver request shall be submitted to the Commission for approval no later than the time the application for approval of such project is submitted to the Commission.
- b. An electric utility that seeks a waiver shall take all steps reasonably required to submit its application for waiver as soon as practicable such that, in the event the Commission denies the request, sufficient time remains to conduct competitive bidding without imprudently risking system reliability.
- c. In no event shall a Commission decision granting a waiver be construed as determinative of whether an electric utility acted prudently in the matter.
- d. Proposed projects included in, or consistent with, a Grid Needs

Assessment conducted prior to the effective date of this Framework, proposed projects procured under a previously approved or accepted mechanism, or projects being submitted under approved programs and/or tariffs, shall not be required to seek a waiver of this Framework and this Framework shall not apply to such projects.

4. Exemption - ownership structure of an electric utility. Upon a showing that an entity has an ownership structure in which there is no substantial difference in economic interests between its owners and its customers, such that the electric utility has no disincentive to pursue new projects through competitive bidding, the Commission will exempt such entity from this Framework.

B. SCOPE OF COMPETITIVE BIDDING

1. An electric utility's Grid Needs identified in a Grid Needs Assessment that is reviewed and approved or accepted by the Commission, shall inform the proposed scope of any RFP, or group of RFPs to be developed for the identified System Resources to be procured. This Framework defines which System Resource or block of System Resources are subject to competitive bidding.
2. Competitive bidding shall enable the comparison of a wide range of System Resource options that are capable individually or as a portfolio of meeting the specific requirements of the RFPs.
3. Each electric utility shall take steps to provide notice of its RFPs, and to encourage participation from a full range of prospective bidders. PURPA qualifying facilities, Providers, the host utility, and its Affiliates, and other utilities shall be eligible to participate in any RFP seeking System Resources.
4. Competitive bidding processes may vary, provided those processes are consistent with this Framework. An electric utility may establish a separate process (such as a "set side" (for example, a special program approved by the Commission, i.e. the Phase 2 Community Based Renewable Energy tariff program for projects under 250 kW)," separate RFP process, or standard form RFP) to acquire System Resources where such mechanisms or processes are deemed more suitable to meet IGP objectives.
5. RFP processes shall be flexible and shall not include unreasonable restrictions on sizes and types of projects considered, taking into account the appropriate Grid Needs identified in a Grid Needs Assessment.

C. RELATIONSHIP TO INTEGRATED GRID PLANNING

1. The Grid Needs Assessment, presented to stakeholders and the Commission for review and comment, shall identify Grid Needs. The identified Grid

Needs applicable to each electric utility shall continue to be used to set the strategic direction of resource planning by the electric utilities. In order for competitive bidding to be effectively and efficiently integrated into a utility's IGP process, stakeholders must work cooperatively to identify and adhere to appropriate timelines, which may from time to time need to be expedited.

2. This Framework is intended to complement the IGP process.
3. A determination shall be made by the Commission as to whether a competitive bidding process shall be used to acquire a System Resource or a block of System Resources that are identified as Grid Needs in the Grid Needs Assessment. Actual competitive bidding for System Resources will normally occur after the Grid Needs are identified, reviewed and accepted or approved by the Commission.
4. Integration of competitive bidding into the IGP process. The general approach to integration has four parts, in sequence:
 - a. The electric utility conducts a Grid Needs Assessment, which will identify those Grid Needs for which the utility proposes and recommends to procure through competitive bidding or other mechanisms or processes, and those resources for which the utility seeks a waiver from competitive bidding.
 - b. The Commission accepts, approves, modifies, or rejects the Grid Needs Assessment and the Grid Needs recommended to be acquired through this Framework.
 - c. The electric utility conducts a competitive bidding process, for System Resources to meet all or a portion of the Grid Needs recommended for competitive bidding identified in the Grid Needs Assessment step of the IGP process; such competitive bidding process shall include the advance filing of a draft RFP with the Commission.
 - d. The electric utility selects a winner from the bidders. But see Part II.C.6, below, concerning the process when there are no bidders worth choosing.
5. An evaluation of bids in a competitive bidding process may reveal desirable projects that were not included in the Grid Needs identified through the Grid Needs Assessment. These projects may be selected if it can be demonstrated that the project is consistent with an approved or accepted Grid Needs Assessment and that such action is expected to benefit the utility and/or its customers.
6. An evaluation of bids in a competitive bidding process may reveal that the acquisition of any of the requested System Resources in the bid will not assist

the utility in fulfilling its obligations to its customers. In such a case, the utility may determine not to acquire such System Resources and shall notify the Commission accordingly.

D. MITIGATION OF RISKS ASSOCIATED WITH COMPETITIVE BIDDING

1. To carry out its competitive bidding obligations consistently with its resource sufficiency obligations, the electric utility must conduct, or consider conducting, two types of activities: self-build and contingency planning. The utility's self-build obligation is addressed in Parts VI.A.1, VI.C and VI.E, below. The electric utility's contingency planning activities are discussed in Part II.D.2 below.
2. In consideration of the isolated nature of the island utility systems, the utility may use a Contingency Plan option to address a near-term reliability or statutory need as results from an actual or expected failure of an RFP process to produce a viable project proposal, or of a project selected in an RFP. The electric utility shall use prudent electric utility practices to determine the nature, amount, and timing of the contingency planning activities and take into account (without limitation) the cost of contingency planning and the probability of third-party failure. The electric utility's Contingency Plan may differ from that proposed in the electric utility's self-build bid. For each project that is subject to competitive bidding, the electric utility shall submit a report on the cost of contingency planning upon the Commission's request.
3. The electric utility may require bidders (subject to the Commission's approval with other elements of a proposed RFP) to offer the utility the option to purchase the project under certain conditions or in the event of default by the seller (i.e., the bidder), subject to commercially reasonable payment terms.

III. ROLES IN COMPETITIVE BIDDING

A. ELECTRIC UTILITY

1. The role of the host electric utility in the competitive bidding process shall include:
 - a. Designing the solicitation process, establishing evaluation criteria consistent with its overall IGP process, and specifying timelines;
 - b. Designing the RFP documents and proposed forms of Agreements and other contracts;
 - c. Implementing and managing the RFP process, including communications with bidders;

- d. Evaluating the bids received;
 - e. Selecting the bids for negotiations based on established criteria;
 - f. Negotiating contracts with selected bidders;
 - g. Determining, where and when feasible, the interconnection facilities and transmission and distribution upgrades necessary to accommodate new System Resources;
 - h. Competing in the solicitation process with a self-build option at its discretion; and
 - i. Providing the Independent Observer with all requested information related to the relevant procurement.
2. Access to Utility Sites. The utility shall consider, on a case-by-case basis before an RFP is issued, offering at its sole discretion one or several utility-owned or controlled sites to bidders in an applicable competitive bidding process. The utility shall consider such factors as:
- a. The anticipated specific non-technical terms of potential proposals.
 - b. The feasibility of the installation. Examples of the factors that may need to be examined in order to evaluate the feasibility of the installation may include, but are not be limited to the following:
 - (i) Specific physical and technical parameters of anticipated non-utility installations, such as the technology that may be installed, space and land area requirements, topographic, slope and geotechnical constraints, fuel logistics, water requirements, number of site personnel, access requirements, waste and emissions from operations, noise profile, electrical interconnection requirements, and physical profile; and
 - (ii) How the operation, maintenance, and construction of each installation will affect factors such as security at the site, land ownership issues, land use and permit considerations (e.g., compatibility of the proposed development with present and planned land uses), existing and new environmental permits and licenses, impact on operations and maintenance of existing and future facilities, impact to the surrounding community, change in zoning permit conditions, and safety of utility personnel.
 - c. The utility's anticipated future use of the site. Examples of why it may be beneficial for the utility to maintain site control may include,

but are not limited to the following: (i) to ensure that System Resources can be constructed to meet system reliability requirements; (ii) to retain flexibility for the utility to perform crucial contingency planning for a utility owned option to back-up any potential unfulfilled commitments, if any, of third-party developers of System Resources; and (iii) to retain the flexibility for the utility to acquire the unique efficiency gains from expansion of existing transmission and distribution facilities or combined-cycle conversions and repowering projects of existing utility simple-cycle combustion turbines and steam fired generating facilities, respectively.

- d. The effect on competitive forces of denying bidders the ability to use the site, taking into account whether the unavailability of adequate sites for non-utility bidders gives the electric utility a competitive advantage.
 - e. Where the utility has chosen not to offer a site to a third-party, the electric utility shall present its reasons, specific to the project and sites at issue, in writing to the Independent Observer and the Commission.
3. The utility shall submit to the Commission for review and approval (subject to modification if necessary), a Code of Conduct described in Part IV.H.9.c, below, with the draft RFP. The utility shall follow the Code of Conduct prior to the commencement of the RFP drafting even while such Code of Conduct is pending before the Commission for review and approval.
 4. The utility shall ensure third party bidders be provided the same type of information to develop proposals as is provided to those developing self-build or Affiliate-bid proposals.

B. HAWAII PUBLIC UTILITIES COMMISSION

1. The primary role of the Commission is to ensure that: (a) each competitive bidding process conducted pursuant to this Framework is fair in its design and implementation so that selection is based on the merits; (b) System Resources selected through competitive bidding processes are consistent with the Grid Needs identified in the Commission approved/accepted Grid Needs Assessment; (c) the electric utility's actions represent prudent practices; and (d) throughout the process, the utility's interests are aligned with the public interest even where the utility has dual roles as designer and participant.
2. The Commission may review, and at its option, approve or modify, each proposed RFP before it is issued, including any proposed form of contracts and other documentation that will accompany the RFP. The

Commission may determine in certain applications that it may pre-approve a form RFP in lieu of approving each individual RFP. If a form RFP is approved, any modifications to such form, other than insertion of the specific Grid Needs being procured, would require approval by the Commission.

3. The Commission shall be the final arbiter of disputes that arise among parties in relation to a utility's competitive bidding process, to the extent described in Part V, below.
4. The Commission shall review, and approve or reject, the contracts that result from competitive bidding processes conducted pursuant to this Framework, in a separate docket upon application by the utility in which the expedited process in Part III.B.7 shall not apply. In reviewing such contracts, the Commission may establish review processes that are appropriate to the specific circumstances of each solicitation, including the time constraints that apply to each commercial transaction.
5. If the utility identifies its self-build project for Grid Needs as superior to third party bid proposals, the utility shall seek Commission approval in keeping with established CIP Approval Requirements.
6. The Commission shall review any complaint that the electric utility is not complying with the Framework, pursuant to Part V.
7. Timely Commission review, approval, consent, or other action described in this Framework is essential to the efficient and effective execution of this competitive bidding process. Accordingly, to expedite Commission action in this competitive bidding process, whenever Commission review, approval, consent, or action is required under this Framework, the Commission may do so in an informal expedited process. The Commission hereby authorizes its Chair, or his or her designee (which designee, may be another Commissioner, a member of the Commission staff, Commission hearings officer, or a Commission hired consultant), in consultation with other Commissioners, Commission staff, and the Independent Observer, to take any such action on behalf of the Commission.

C. INDEPENDENT OBSERVER

1. An Independent Observer is required whenever the utility or its Affiliate seeks to advance a project proposal (i.e., in competition with those offered by bidders) in response to a need that is addressed by its RFP, or when the Commission otherwise determines. Unless otherwise determined by the Commission, an Independent Observer will monitor the competitive bidding process and will report on the progress and results to the Commission, sufficiently early so that the Commission is able to address any defects and allow competitive bidding to occur in time to meet the utility's Grid Needs.

Any interaction between a utility and bidder, including a utility's self-build team or Affiliate during the course of a solicitation process, beginning with the preparation of the RFP, shall be closely monitored by the Independent Observer. Specific tasks to be performed by the Independent Observer shall be identified by the utility in its proposed RFP and as may be required by the Commission.

2. Independent Observer obligations. The Independent Observer will have duties and obligations in two areas: Advisory and Monitoring.
 - a. Advisory. The Independent Observer shall:
 - (i) Certify to the Commission that at each of the following steps, the electric utility's judgments created no unearned advantage for any bidder, or, when applicable, the electric utility or any Affiliate:
 - (1) Pre-qualification criteria;
 - (2) RFP;
 - (3) Model Agreements to be attached to the RFP;
 - (4) Selection criteria;
 - (5) Evaluation of bids;
 - (6) Final decision to purchase System Resources or proceed with self-build option when applicable; and
 - (7) Negotiation of contracts.
 - (ii) Advise the electric utility on its decision-making during, and with respect to, each of the electric utility's actions listed in the preceding item;
 - (iii) Review stakeholder comments submitted in response to draft RFP and model Agreements and advise the utility on the consideration of proposed changes that may improve the process or results of the RFP;
 - (iv) Report immediately to the electric utility's executive in charge of ensuring compliance with this Framework, and the Commission, any deviations from the Framework or violations of any procurement rules;
 - (v) After the electric utility's procurement selection is completed, provide the Commission with:
 - (1) An overall assessment of whether the goals of the RFP were achieved, such goals to include without limitation the attraction of a sufficient number of bidders and the elimination of actual or perceived utility favoritism for its own or an Affiliate's project; and

- (2) Recommendations for improving future competitive bidding processes.
 - (vi) Be available to the Commission as a witness if required to evaluate a complaint filed against an electric utility for non-compliance with this Framework, or if required in a future regulatory proceeding if questions of prudence arise.
- b. Monitoring. The Independent Observer shall:
- (i) Monitor all steps in a competitive bidding process, beginning upon Commission's approval or acceptance of the Grid Needs Assessment;
 - (ii) Monitor communications (and communications protocols) with bidders;
 - (iii) Monitor adherence to Codes of Conduct;
 - (iv) Monitor contract negotiations with bidders;
 - (v) Monitor all interactions between the electric utility and any bidder during all events affecting a solicitation process; and
 - (vi) Report to the Commission on monitoring results during each stage of the competitive process sufficiently early so that the Commission can correct defects or eliminate uncertainties without endangering project milestones.
3. The Independent Observer shall have no decision-making authority, and no obligation to resolve disputes, but may offer to mediate between disputing parties.
4. The Independent Observer shall provide comments and recommendations to the Commission, at the Commission's request, to assist in resolving disputes or in making any required determinations under this Framework.
5. Independent Observer qualifications. The Independent Observer shall be qualified for the tasks the observer must perform. Specifically, the Independent Observer shall:
- a. Be knowledgeable about, or be able rapidly to absorb knowledge about, any unique characteristics and needs of the electric utility;
 - b. Be knowledgeable about the characteristics and needs of small, non-

- interconnected island electric grids, and be aware of the unique challenges and operational requirements of such systems;
- c. Have the necessary experience and familiarity with utility modeling capability, transmission and/or distribution system planning, operational characteristics, and other factors that affect project selection;
 - d. Have a working knowledge of common operational, technical and contract terms applicable to System Resources as well as appropriate contract negotiation processes applicable to System Resource procurement;
 - e. Be able to work effectively with the electric utility, the Commission, and its staff during the bid process; and
 - f. Demonstrate impartiality.
6. Selection and contracting. The electric utility or the Commission shall: (a) identify qualified candidates for the role of Independent Observer (and also shall consider qualified candidates identified by prospective participants in the competitive bidding process); (b) seek Commission and electric utility approval of the final list of qualified candidates; and (c) select an Independent Observer from among the final list of qualified candidates. The contract with the Independent Observer shall be acceptable to the electric utility and the Commission, and provide, among other matters, that the Independent Observer: (a) report to the Commission and carry out such tasks as directed by the Commission, including the tasks described in this Framework; (b) cannot be terminated and payment cannot be withheld without the consent of the Commission; and (c) can be terminated by the Commission without the utility's consent, if the Commission deems it to be in the public interest in the furtherance of the objectives of this Framework to do so. In the event the electric utility contracts with the Independent Observer, the utility is allowed to defer prudently incurred Independent Observer costs (included in a deferred debit account), and the balance would be amortized to expense over five years (or a reasonable period determined by the Commission), beginning when rates that reflect such costs are effective (when a separate cost recovery mechanism is effective, or interim or final rates in a general rate case). Carrying charges, based on the utility's allowance for funds used during construction ("AFUDC") rate, would apply monthly for the cost in the deferred debit account and included in the deferred debit account until the onset of amortization. The amortization expense would be included in the utility revenue requirement and the unamortized balance would be included in rate base when there is a general rate case. In the event that a general rate case is replaced by another Commission approved regulatory process or mechanism, the utility may recover prudently incurred Independent Observer costs upon Commission approval through the Commission approved regulatory process or

mechanism. Subject to Commission approval, the utility may also recover such costs through the major project interim recovery (“MPIR”) adjustment mechanism, Exceptional Project Recovery Mechanism (“EPRM”), renewable energy infrastructure program (“REIP”) surcharge or other recovery mechanism until such costs are recovered through effective rates approved in a rate case or other Commission approved regulatory process or mechanism.

7. As part of the RFP design process, the utility shall develop procedures to be included in the RFP by which any participant in the competitive bidding process may present to the Commission, for review and resolution, positions that differ from those of the Independent Observer (i.e., in the event the Independent Observer makes any representations to the Commission upon which the participant does not agree).

IV. THE REQUEST FOR PROPOSALS PROCESS

A. GENERAL

1. Competitive bidding shall be structured and implemented in a way that facilitates an electric utility's acquisition of System Resources identified in a utility's Grid Needs Assessment. Direct costs and benefits incurred or received by the utility and its customers shall be taken into account in the bid evaluation and selection process.
2. Competitive bidding shall be structured and implemented in a flexible and efficient manner that promotes electric utility system reliability by facilitating the timely acquisition of needed System Resources and allowing the utility to adjust to changes in circumstances.
 - a. The implementation of competitive bidding cannot be allowed to negatively impact reliability of the electric utility system.
 - b. The System Resources acquired under a competitive bidding process must meet the needs of the utility in terms of the reliability of the System Resources, the characteristics of the System Resources required by the utility, and the control the utility needs to exercise over operation and maintenance in order to minimize system integration concerns.
3. The competitive bidding process shall ensure that proposals and bidders are judged on the merits, without being unduly burdensome to the electric utilities or the Commission.
 - a. The competitive bidding process shall include an RFP and supporting documentation by which the utility sets forth the requirements to be fulfilled by bidders and describes the process

- by which it will: (i) conduct its solicitation; (ii) obtain consistent and accurate information on which to evaluate bids; (iii) implement a consistent and equitable evaluation process; and (iv) systematically document its determinations. The RFP shall also describe the role of the Independent Observer and bidders' opportunities for challenges and for dispute resolution.
- b. When a utility advances its own project proposal (i.e., in competition with those offered by bidders) or accepts a bid from an Affiliate, the utility shall take all reasonable steps, including any steps required by the Commission, to mitigate concerns over an unfair or unearned competitive advantage that may exist or reasonably be perceived by other bidders or stakeholders.
4. If a Provider or Affiliate proposal is selected as a result of the RFP process, one or more contracts are the expected result. Proposed forms of Agreements and other contracts that may result from the RFP process shall be included with each RFP. The RFP shall specify whether any opportunity exists to propose or negotiate changes to the proposed form of Agreement or contract.

B. DESIGN OF THE COMPETITIVE BIDDING SOLICITATION PROCESS

1. The competitive bidding solicitation process shall include the following:
 - a. Design of the RFP and supporting documents;
 - b. Issuance of the draft and final RFP;
 - c. Development and submission of proposals by bidders;
 - d. A "multi-stage evaluation process" to reduce bids down to a short list and/or "award group" as appropriate for a particular RFP (i.e., a process that may include, without limitation: (i) receipt of the proposals; (ii) completeness check; (iii) threshold or minimum requirements evaluation; (iv) initial evaluation including price screen/non-price assessment; (v) selection of a short list; (vi) detailed evaluation or portfolio development; and (vii) selection of final award group for contract negotiation);
 - e. Contract negotiations (when a third-party bid is selected); and
 - f. Commission approval of any resulting contract or selected self-build project, if required by the Commission.
2. The RFP shall identify any unique system requirements and provide information regarding the requirements of the utility, important resource

attributes, desired options and criteria used for the evaluation. For example, if the utility values dispatchability or operating flexibility, the RFP shall:

(a) request that a bidder offer such an option; and (b) explain how the utility will evaluate the impacts of dispatchability or operational flexibility in the bid evaluation process.

3. The RFP (including the response package, proposed forms of Agreements and other contracts) shall describe the bidding guidelines, the bidding requirements to guide bidders in preparing and submitting their proposals, the general bid evaluation and selection criteria, the risk factors important to the utility, and, to the extent practicable, the schedule for all steps in the bidding process.
4. The utility may charge bidders a reasonable fee, to be reviewed by the Independent Observer, for participating in the RFP process.
5. Other Content of RFP. The RFP shall also contain:
 - a. The circumstances under which an electric utility and/or its Affiliates may participate;
 - b. An explanation of the procedures by which any person may present to the Commission positions that differ from those of the Independent Observer; and
 - c. A statement that if disputes arise under this Framework, the dispute resolution process established in this Framework will control.
6. The process leading to the distribution of the RFP shall include the following steps (each step to be monitored and reported on by the Independent Observer), unless the Commission modifies this process for a particular competitive bid:
 - a. The utility designs a draft RFP, then files its draft RFP and supporting documentation with the Commission;
 - b. The Commission holds a status conference, where the utility presents the details of the RFP and interested parties (which may include potential bidders) are provided the opportunity to ask questions regarding the draft RFP;
 - c. Interested parties submit comments on the draft RFP to the utility and the Commission;
 - d. The utility determines, with advice from the Independent Observer, whether and how to incorporate recommendations from interested parties in the draft RFP;
 - e. The utility submits its final, proposed RFP to the Commission for

its review and approval (and modification if necessary) according to the following procedure:

- (i) The Independent Observer shall submit its comments and recommendations to the Commission concerning the RFP and all attachments, simultaneously with the electric utility's proposed RFP.
 - (ii) The utility shall have the right to issue the RFP if the Commission does not direct the utility to do otherwise within thirty (30) days after the Commission receives the proposed RFP and the Independent Observer's comments and recommendations.
7. A pre-qualification requirement is a requirement that a bidder must satisfy to be eligible to bid. A pre-qualification process may be incorporated in the design of some bidding processes, depending on the specific circumstances of the utility and its resource needs. Any pre-qualification requirements shall apply equally to independent bidders, the electric utility's self-build bid, and the bid of any utility's Affiliate.
 8. As part of the RFP design process, the utility shall develop and specify the type and form of threshold criteria that will apply to all bidders, including the utility's self-build proposals. Examples of potential threshold criteria include requirements that bidders have site control, maintain a specified credit rating, and demonstrate that their proposed technologies are mature.
 9. The RFP design process shall address credit requirements and security provisions, which apply to: (a) the qualification of bidders; and (b) bid evaluation processes.
 10. The utility shall have the discretion to modify the RFP or solicit additional bids from bidders after reviewing the initial bids, provided that such discretion is clearly identified in the RFP and any modification is reviewed by the Independent Observer and submitted to the Commission along with the Independent Observer's comments. The electric utility may issue the modified RFP thirty (30) days after the Commission has received these materials, unless the Commission directs otherwise.
 11. All involved parties shall plan, collaborate, and endeavor to issue the final RFP within ninety (90) days from the date the electric utility submits the draft RFP to the Commission.

C. FORMS OF CONTRACTS

1. The RFP shall include proposed forms of Agreements and other contracts,

with commercially reasonable terms and conditions that properly allocate risks among the contracting parties in light of circumstances. The terms and conditions of the contracts shall be specified to the extent practical, so that bidders are aware of, among other things, performance requirements, pricing options, key provisions that affect risk allocation (including those identified in sub-paragraph 2 below), and provisions that may be subject to negotiation. Where contract provisions are not finalized or provided in advance of RFP issuance (e.g., because certain contract provisions must reflect features of the winning bidder's proposal such as technology or location), the RFP shall so indicate.

2. The provisions of a proposed contract shall address matters such as the following (unless inapplicable): (a) reasonable credit assurance and security requirements appropriate to an island system that reasonably compensates the utility and its customers if the project sponsor fails to perform; (b) contract buyout and project acquisition provisions; (c) in-service date delay and acceleration provisions; and (d) liquidated damage provisions that reflect risks to the utility and its customers.
3. The RFP shall specify which terms in the proposed forms of contract, if any, are not subject to negotiation or alternative proposals, subject to approval of the RFP by the Commission. Bidders may submit alternative language as part of their bids, provided that any such variation is not inconsistent with any identified Grid Needs.

D. ISSUANCE OF THE RFP AND DEVELOPMENT OF PROPOSALS

1. Each electric utility shall take steps to provide notice of its RFPs to, and encourage participation from, the full community of prospective bidders.
2. Bidders may be required to submit a "notice of intent to bid" to the electric utility.
3. The electric utility shall develop and implement a formal process to respond to bidders' questions.
4. The electric utility may conduct a bidders' conference.
5. The electric utility shall provide bidders with access to information through a website where it can post documents and information.
6. The process shall require all third-party bids to be submitted by the deadline specified in the RFP, except that the utility's self-build bid shall be submitted one day in advance.
7. Bids may be deemed non-conforming if they do not meet the RFP requirements or provide all of the material information requested in an RFP. At the utility's discretion, in consultation with the Independent

Observer, the utility may elect to: (i) consider a non-conforming bid as eligible in the RFP provided it is not inconsistent with any identified Grid Needs; (ii) give proposals that are non-conforming additional time to remedy their non-conformity; or (iii) decline to consider any bid that is non-conforming.

E. BID EVALUATION / SELECTION CRITERIA

1. The utility, monitored by the Independent Observer, shall compare bids received.
2. The evaluation criteria and the respective weight or consideration given to each such criterion in the bid evaluation process may vary from one RFP to another.
3. The bid evaluation process shall include consideration of differences between bidders with respect to proposed contract provisions, and differences in anticipated compliance with such provisions, including but not limited to provisions intended to ensure:
 - a. System Resource and electric system reliability;
 - b. Appropriate risk allocations;
 - c. Counter-party creditworthiness; and
 - d. Bidder qualification.
4. Proposals shall be evaluated based on a consistent and reasonable set of economic and fuel price assumptions, to be specified in the RFP.
5. Both price and non-price evaluation criteria, shall be described in the RFP, and shall be considered in evaluating proposals.
6. In evaluating competing proposals, all relevant incremental costs to the electric utility and its customers shall be considered. These may include transmission costs, distribution costs and system impacts, and the reasonably foreseeable balance sheet and related financial impacts of competing proposals.
7. The impact of service(s) from System Resources that a utility already has on its system, in terms of reliability and dispatchability, and the impacts that increasing the amount of service(s) from new System Resources may have, in terms of reliability and dispatchability, shall be taken into account in the bid evaluation. The RFP shall specify the methodology for considering this effect. Such methodology shall not cause double-counting with the financial effects discussed in sub-paragraph 6, above, and sub-paragraph 8, below.

8. The impact of System Resource costs on the utility's balance sheets, and the potential for resulting utility credit downgrades (and higher borrowing costs), may be accounted for in the bid evaluation. Where the utility has to restructure its balance sheet and increase the percentage of more costly equity financing in order to offset the impacts of purchasing service(s) from a third party owned System Resource on its balance sheet, this rebalancing cost shall also be taken into account in evaluating the total cost of a proposal for a new System Resource if third party owned, and it may be a requirement that bidders provide all information necessary to complete these evaluations. The RFP shall describe the methodology for considering financial effects.
9. The type and form of non-price threshold criteria shall be identified in the RFP. Such threshold criteria may include, among other criteria, the following:
 - a. Project development feasibility criteria (e.g., siting status, ability to finance, environmental permitting status, commercial operation date certainty, engineering design, fuel supply status, bidder experience, participant acquisition strategy, conformance with utility information assurance and security policies and reliability of the technology);
 - b. Project operational viability criteria (e.g., operation and maintenance plan, financial strength, environmental compliance, and environmental impact);
 - c. Operating profile criteria (e.g., dispatching and scheduling, coordination of maintenance, operating profile such as ramp rates, and quick start capability); and
 - d. Flexibility criteria (e.g., in-service date flexibility, expansion capability, contract term, contract buy-out options, fuel flexibility, and stability of the price proposal).
10. The weights for each non-price criterion shall be fully specified by the utility in advance of the submission of bids, as they may be based on an iterative process that takes into account the relative importance of each criterion given system needs and circumstances in the context of a particular RFP. The Commission, however, may approve of less than full specification prior to issuance of the RFP. Since the subjectivity inherent in non-price criteria creates risk of bias and diminution in bidders' trust of the process, the RFP must specify likely areas of non-price evaluation, and the evaluation process must be closely monitored and publicly reported on by the Independent Observer.

F. EVALUATION OF THE BIDS

1. The evaluation and selection process shall be identified in the RFP, and may vary based on the scope of the RFP. In some RFP processes, a multi-stage evaluation process may be appropriate.
2. The electric utility shall document the evaluation and selection process for each RFP process for review by the Commission in approving the outcome of the process (i.e., in approving an Agreement or a utility self-build proposal).
3. A detailed system evaluation process, which uses models and methodologies that are consistent with those used in the utility's Grid Needs Assessment, may be used to evaluate bids. In anticipation of such evaluation processes, the RFP shall specify the data required of bidders.

G. CONTRACT NEGOTIATIONS

1. There may be opportunities to negotiate price and non-price terms to enhance the value of the contract for the bidder, the utility, and its customers. Negotiations shall be monitored and reported upon by the Independent Observer.
2. The electric utility may use competitive negotiations among short-listed bidders.

H. FAIRNESS PROVISIONS AND TRANSPARENCY

1. The competitive bidding process shall judge all bidders on the merits only.
2. During the bidding process, the electric utility shall treat all bidders, including any utility Affiliate, the same in terms of access to information, time of receipt of information, and response to questions.
3. A "closed bidding process" is generally anticipated, rather than an "open bidding process." Under one type of closed bidding process, bidders are informed through the RFP of: (a) the process that will be used to evaluate and select proposals; (b) the general bid evaluation and selection criteria; and (c) the proposed forms of Agreements and other contracts. However, bidders shall not have access to the utility's bid evaluation models, the detailed criteria used to evaluate bids, or information contained in proposals submitted by other bidders.
4. If the electric utility chooses to use a closed process:
 - a. The utility shall provide the Independent Observer, if an Independent Observer is required, with all the necessary information to allow the Independent Observer to understand the model and to enable the Independent Observer to observe the entire analysis in order to ensure a fair process; and

- b. After the utility has selected a bidder, the utility shall meet with the losing bidder or bidders to provide a general assessment of the losing bidder's specific proposal if requested by the losing bidder within seven (7) days of the selection.
5. The host electric utility shall be allowed to consider its own self-bid proposals in response to Grid Needs identified in its RFP.
6. Procedures shall be developed by the utility prior to the initiation of the bidding process to define the roles of the members of its various project teams, to outline communications processes with bidders, and to address confidentiality of the information provided by bidders. Such procedures shall be submitted in advance to the Independent Observer and the Commission for comment.
7. If the IGP process indicates that a competitive bidding process will be used to acquire a System Resource or a block of System Resources to meet all or a portion of the Grid Needs, then the utility will indicate, in the submittal of its draft RFP to the Commission for review, which of the RFP process guidelines will be followed, the reasons why other guidelines will not be followed in whole or in part, and other process steps proposed based on good solicitation practice; provided that the Commission may require that other process steps be followed.
8. If proposed, utility self-build projects or other utility-owned projects, or projects owned by an Affiliate of the host utility, are to be compared against third party proposals obtained through an RFP process. The Independent Observer shall monitor the utility's conduct of its RFP process, advise the utility if there are any fairness issues, and report to the Commission at various steps of the process, to the extent prescribed by the Commission. Specific tasks to be performed by the Independent Observer shall be identified by the utility in its proposed RFP submitted to the Commission for approval. The Independent Observer will review and track the utility's execution of the RFP process to ascertain that no undue preference is given to an Affiliate, the Affiliate's bid, or to self-build or other utility-owned facilities. The Independent Observer's review shall include, to the extent the Commission or the Independent Observer deems necessary, each of the following steps, in addition to any steps the Commission or Independent Observer may add: (a) reviewing the draft RFP and the utility's evaluation of bids, monitoring communications (and communications protocols) with bidders; (b) monitoring adherence to codes of conduct, and monitoring contract negotiations with bidders; (c) assessing the utility's evaluation of Affiliate bids, and self-build or other utility-owned projects; and (d) assessing the utility's evaluation of an appropriate number of other bids. The utility shall provide the Independent Observer with all requested information. Such information may include, without limitation, the utility's evaluation of the unique risks and advantages associated with the utility self-

build or other utility-owned projects, including the regulatory treatment of construction cost variances (both underages and overages) and costs related to equipment performance, contract terms offered to or required of bidders that affect the allocation of risks, and other risks and advantages of utility self-build or other utility-owned projects to consumers. The Independent Observer may validate the criteria used to evaluate Affiliate bids and self-build or other utility-owned facilities, and the evaluation of Affiliate bids and self-build or other utility-owned facilities. In order to accomplish these tasks, the utility, in conjunction with the Independent Observer, shall propose methods for making fair comparisons (considering both cost and risks) between the utility-owned or self-build facilities and third-party facilities.

9. Where the electric utility is responding to its own RFP, or is accepting bids submitted by its Affiliates, the utility will take additional steps to avoid self-dealing in both fact and perception.
 - a. The following tasks shall be completed as a matter of course (i.e., regardless of whether the utility or its Affiliate is seeking to advance a proposal), including: (i) the utility shall develop all bid evaluation criteria, bid selection guidelines, and the quantitative evaluation models and other information necessary for evaluation of bids prior to issuance of the RFP; (ii) the utility shall establish a website for disseminating information to all bidders at the same time; and (iii) the utility shall develop and follow a Procedures Manual, which describes: (1) the protocols for communicating with bidders, the self-build team, and others; (2) the evaluation process in detail and the methodologies for undertaking the evaluation process; (3) the documentation forms, including logs for any communications with bidders; and (4) other information consistent with the requirements of the solicitation process.
 - b. The following tasks shall be completed whenever the utility is seeking to advance a System Resource proposal, including: (i) the utility shall submit its self-build bid one day in advance of the deadline specified in the RFP, and provide substantially the same information in its proposal as other bidders; (ii) the utility shall follow the Code of Conduct; and (iii) the utility shall implement appropriate confidentiality agreements prior to the issuance of the RFP to guide the roles and responsibilities of utility personnel.
 - c. The Code of Conduct shall be signed by each utility employee involved either in advancing the self-build project or implementing the competitive bidding process, and shall require that:
 - (i) Whenever staffing and resources permit, the electric utility shall establish internally a separate project team to undertake the evaluation, with no team member having any involvement with the utility self-build option;

- (ii) During the RFP design and bid evaluation process, there shall be no oral or written contacts between the employees preparing the bid and the electric utility's employees responsible for bid evaluation, other than contacts authorized by the Code of Conduct and the RFP;
 - (iii) Throughout the bidding process, the electric utility shall treat all bidders, including its self-build bid and any electric utility Affiliate, the same in terms of access to information, time of receipt of information, and response to questions.
 - d. A company officer, identified to the Independent Observer and the Commission, shall have the written authority and obligation to enforce the Code of Conduct. Such officer shall certify, by affidavit, Code of Conduct compliance by all employees after each competitive process ends.
 - e. Further steps may be considered, as appropriate, or ordered by the Commission.
10. Where the utility seeks to advance its proposed facilities in addition to, or instead of other developers' bids in its RFP, its proposal must satisfy all the criteria applicable to non-utility bidders, including but not limited to providing all material information required by the RFP, and being capable of implementation.
11. Bids submitted by Affiliates shall be held to the same contractual and other standards as projects advanced by other bidders.

I. TRANSMISSION INTERCONNECTION AND UPGRADES

- 1. A winning bidder has the right to interconnect its System Resource to the electric utility's transmission and distribution system, and to have that transmission and distribution upgraded as necessary to accommodate the output of its System Resource.
- 2. With respect to procedures and methodologies for:
 - a. Designing interconnections;
 - b. Allocating the cost of interconnections;
 - c. Scheduling and carrying out the physical implementation of interconnections;

- d. Identifying the need for transmission and distribution upgrades;
- e. Allocating the cost of transmission and distribution upgrades; and
- f. Scheduling and carrying out the physical implementation of transmission and distribution upgrades;

the electric utility shall treat all bidders, including its own bid and that of any Affiliate, in a comparable manner.

3. Upon the request of a prospective bidder, the electric utility shall provide general information about the possible interconnection and transmission and distribution upgrade costs associated with project locations under consideration by the bidder.
4. To ensure comparable treatment, the Independent Observer shall review and monitor the electric utility's policies, methods and implementation and report to the Commission.

V. DISPUTE RESOLUTION PROCESS

The Commission will serve as an arbiter of last resort, after the utility, Independent Observer, and bidders have attempted to resolve any dispute or pending issue. The Commission will use an informal expedited process to resolve the dispute within thirty (30) days, as described in Part III.B.7. There shall be no right to hearing or appeal from this informal expedited dispute resolution process. The Commission encourages affected parties to seek to work cooperatively to resolve any dispute or pending issue, perhaps with the assistance of an Independent Observer, who may offer to mediate but who has no decision-making authority. The utility and Independent Observer shall conduct informational meetings with the Commission and Consumer Advocate to keep each apprised of issues that arise between or among the parties.

VI. PARTICIPATION BY THE HOST UTILITY

- A. Where the electric utility is addressing a system reliability issue or statutory requirement, the utility shall develop one or more project proposals that are responsive to the System Resource need identified in the RFP.
- B. If the utility opts not to propose its own project, the utility shall request and obtain the Commission's approval. In making this request, the utility shall demonstrate why relying on the market to provide the needed resource is prudent.

- C. Where the RFP process has as its focus something other than a reliability-based need, the utility may choose (or decline) to advance its own project proposal.
- D. If the RFP process results in the selection of non-utility (or third-party) projects to meet a system reliability need or statutory requirement, the utility shall develop and periodically update a Contingency Plan to address the risk that the third-party projects may be delayed or not completed. In this situation, the electric utility shall separately submit, to the extent practical, a description of such activities and a schedule for carrying them out. Such description shall be updated as appropriate.
 - 1. The plans may include the identification of milestones for such projects, and possible steps to be taken if the milestones are not met.
 - 2. Pursuant to the plans, it may be appropriate for the utility to proceed to develop a utility-owned project or projects until such action can no longer be justified as reasonable. The utility-owned project(s) may differ from the project(s) advanced by the utility in the RFP process, or the resource(s) identified in its Grid Needs Assessment.
 - 3. The contracts developed for the RFP process to acquire third-party resources shall include commercially reasonable provisions that address delays or non-completion of third-party projects, such as provisions that identify milestones for the projects, seller (i.e., bidder) obligations, and utility remedies if the milestones are not met, and may include provisions to provide the utility with the option to purchase the project under certain circumstances or events of default by the seller (i.e., the bidder).
- E. A utility may submit more than one proposal or may supply options for a specific proposal as dictated by the RFP needs, such as submitting variations of a proposal and/or offering options in a proposal.

VII. RATEMAKING

- A. The costs that an electric utility reasonably and prudently incurs in designing and administering its competitive bidding processes are recoverable through rates to the extent reasonable and prudent.
- B. The costs that an electric utility incurs in taking reasonable and prudent steps to implement Contingency Plans are recoverable through the utility's rates, to the extent reasonable and prudent, as part of the cost of providing reliable service to customers.
- C. The reasonable and prudent capital costs that are part of an electric utility's Contingency Plans shall be accounted for similar to costs for planning other capital projects (provided that such accounting treatment shall not be

determinative of ratemaking treatment):

1. Such costs would be accumulated as construction work in progress, and AFUDC would accrue on such costs. If the Contingency Plans, as implemented, result in the addition of planned resources to the utility system, then the costs incurred and related AFUDC would be capitalized as part of the installed resources (i.e., recorded to plant-in-service) and added to rate base. The costs would be depreciated over the life of the resource addition.
 2. If implementation of the Contingency Plans is terminated before the resources identified in such plans are placed into service, the costs incurred and related AFUDC included in construction work in progress would be transferred to a miscellaneous deferred debit account and the balance would be amortized to expense over five years (or a reasonable period determined by the Commission), beginning when rates that reflect such amortization expense are effective (when a separate cost recovery mechanism is effective, or interim or final rates in a general rate case). Carrying charges, based on the AFUDC rate, would apply monthly for the costs in the miscellaneous deferred debit account and included in the miscellaneous deferred debit account until the onset of amortization. The amortization expense would be included in the utility's revenue requirement and the unamortized balance would be included in the utility's rate base. In the event that a general rate case is replaced by another Commission approved regulatory process or mechanism, the utility may recover prudently incurred costs of the Contingency Plans upon Commission approval through the Commission approved regulatory process or mechanism. Subject to Commission approval, the utility may also recover such costs through the EPRM or MPIR adjustment mechanism, REIP surcharge or other recovery mechanism until such costs are recovered through effective rates approved in a rate case or other Commission approved regulatory process or mechanism.
- D. The regulatory treatment of utility-owned or self-build projects will be cost-based, consistent with traditional cost-of-service ratemaking, wherein prudently incurred capital costs including associated AFUDC and/or carrying costs are included in rate base; provided that the evaluation of the utility's bid must account for the possibility that the operational costs actually incurred, and recovered from customers, over the project's lifetime, will vary from the levels assumed in the utility's bid. The utility will not, however, be allowed to recover any capital costs that exceed the bid amount. Any utility-owned project selected pursuant to the RFP process will remain subject to prudence review in a subsequent rate proceeding with respect to the utility's obligation to prudently implement, construct or manage the project consistent with the objective of providing reliable service at the lowest reasonable cost. Subject to Commission approval, the utility-owned or self-build project costs, including operations and

maintenance expenses, deferred costs, and taxes, may also be recovered through the EPRM or MPIR adjustment mechanism, REIP surcharge or other recovery mechanism, until such costs are recovered in base rates.

VIII. QUALIFYING FACILITIES

- A. For any resource to which the competitive bidding requirement does not apply (due to waiver or exemption), the utility retains its traditional obligation to offer to purchase capacity and energy from a QF at avoided cost upon reasonable terms and conditions approved by the Commission.

- B. For any resource to which the competitive bidding requirement does apply, the utility shall apply to the commission to waive or modify the time periods described in Hawaii Administrative Rules § 6-74-1S(c) (1998) for the utility to negotiate with a QF pursuant to the applicable provisions of Hawaii Administrative Rules § 6-74-1S(c) (1998), and upon approval of the Commission, the utility's obligation to negotiate with a QF shall be deferred pending completion of the competitive bidding process.
 - 1. If a non-QF is the winning bidder:
 - a. A QF will have no PURPA right to supply the resource provided by a non-QF winning bidder.
 - b. If a non-QF winner does not supply all the capacity needed by the utility, or if a need develops between RFPs that will not be satisfied by an RFP due to a waiver or exemption, a QF, upon submitting a viable offer, is permitted to exercise its PURPA rights to sell at avoided cost. The Commission's determination of avoided cost will be bounded by the price level established by the winning non-QF.
 - 2. Where the winning bidder is the utility's self-build option, a QF will not have a PURPA right to supply the resource provided by the utility's self-build option.
 - 3. If a QF is the winning bidder, the QF has the right to sell to the electric utility at its bid price, unless the price is modified in the contract negotiations that are part of the bidding process.

EXHIBIT 3

Redline of existing CBF and updated CBF

FRAMEWORK FOR COMPETITIVE BIDDING

December 8, 2006
[REDACTED], 2020

STATE OF HAWAII
PUBLIC UTILITIES COMMISSION

Exhibit A

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STATE OF HAWAII
PUBLIC UTILITIES COMMISSION

FRAMEWORK FOR COMPETITIVE BIDDING

~~December 8, 2006~~
~~_____~~, 2020

I. DEFINITIONS

As used in this Framework, unless the context clearly requires otherwise:

~~"Approved IRP" means an electric utility's IRP that has been approved by the Commission in the utility's IRP proceeding. As of the effective date of this Framework, the status of each utility's IRP is as follows: (1) on October 28, 2005, Hawaiian Electric Company, Inc. filed its 3rd IRP in In re Hawaiian Elec. Co., Inc., Docket No. 03-0253; (2) Maui Electric Company, Ltd. is scheduled to file its 3rd IRP by April 30, 2007, in In re Maui Elec. Co., Ltd., Docket No. 04-0077; (3) Hawaii Electric Light Company, Inc. is scheduled to file its 3rd IRP by December 29, 2006, in In re Hawaii Elec. Light Co., Inc., Docket No. 04-0046; and (4) on June 20, 2006, the Commission opened a proceeding for Kauai Island Utility Cooperative's 3rd IRP in In re Kauai Island Util. Coop., Docket No. 2006-0165.~~

~~"Affiliate" means any person or entity that possesses an "affiliated interest" in a utility as defined by Section 269-19.5, Hawai'i Revised Statutes ("HRS"), including a utility's parent holding company but excluding a utility's subsidiary or parent which is also a regulated utility.~~

~~"Agreement" means an agreement or contract for an electric utility to purchase a System Resource from a third party, pursuant to the terms of this Framework.~~

~~"CIP Approval Requirements" means the procedure set forth in the Commission's General Order No. 7, Standards for Electricity Utility Service in the State of Hawaii, Paragraph 2.3(g), as modified by In re Kauai Island Util. Coop., Docket No. 03-0256, Decision and Order No. 21001, filed on May 27, 2004, and In re Hawaiian Elec. Co., Inc., Hawaii Elec. Light Co., Inc., and Maui Elec. Co., Ltd., Docket No. 03-0257, Decision and Order No. 21002, filed on May 27, 2004. "In general, [the] commission's analysis of capital expenditure applications involves a review of whether the project and its costs are reasonable and consistent with the public interest, among other factors. If the commission approves the [electric] utility's application, the commission in effect authorizes the utility to commit funds for the project, -subject -to the proviso that 'no part of the project -may -be included -in -the -utility's -rate -base -unless -and -until -the- project is in fact installed, and is used and useful for public utility purposes.'" Decision and Order No. 21001, at 12; and Decision and Order No. 21002, at 12.~~

~~"Code of Conduct" means a written code developed by the host electric utility and approved by the Commission to ensure the fairness and integrity of the competitive bidding process, in particular where the host utility or its ~~affiliate~~Affiliate seeks to advance its own~~

~~resource~~System Resource proposal in response to an RFP. The "Code of Conduct" is more fully described in Part IV.H.9.c of the Framework.

"Commission" means the Public Utilities Commission of the State of ~~Hawaii~~Hawai'i.

"Competitive bid" or "competitive bidding" means the mechanism established by this Framework for acquiring a future ~~energy generation resource~~System Resource or a block of ~~generation resources~~System Resources by an electric utility.

"Consumer Advocate" means the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, State of ~~Hawaii~~Hawai'i.

"Contingency Plan" means an electric utility's plan to provide either temporary or permanent ~~generation or load reduction program~~solutions to address a ~~near term~~reliability or statutory need (including, for example, the need to comply with reliability standards as discussed in Hawai'i Revised Statutes ("HRS") §§ 269-0141 through 269-0144 and with the State of Hawai'i's Renewable Portfolio Standards law, as codified in HRS §§ 269-91 through 269-95) as may result from an actual or expected failure of an RFP process to produce a ~~viable project proposal, or of a project selected in an RFP, or a viable project proposal (including any project not completed or delayed)~~. The utility's Contingency Plan may be different from ~~the utility's Parallel Plan and~~ the utility's bid. The term "utility's bid," as used herein, refers to a utility's proposal advanced in response to a System Resource need that is addressed by its RFP.

"Electric utility" or "utility" means a provider of electric utility service that is regulated by and subject to the Commission's jurisdiction pursuant to Chapter 269, ~~Hawaii~~Hawai'i Revised Statutes.

"Framework" means the Framework for Competitive Bidding dated ~~December 8, 2006~~ 2020, adopted by the Commission in Docket No. ~~03-0372~~.

"Grid Needs" means the specific grid services (including but not limited to capacity, energy and ancillary services) identified in the Grid Needs Assessment, including transmission and distribution system needs that may be addressed through a Non-Wires Alternative. Grid Needs that are subject to the Framework generally does not apply to utility equipment (i.e., transmission and distribution infrastructure, flexible AC transmission devices, materials, etc.) that are normally procured through the utility's procurement process for goods and services.

"Grid Needs Assessment" means the process step in the IGP where the technical analyses are conducted to determine the generation, transmission, and distribution grid service(s) needs to meet state policy objectives, reliability standards, among other goals, and presented to the Commission for review and approval or acceptance.

"IGP" or "Integrated Grid Planning" means an electric utility's planning process that aims to integrate the Grid Needs Assessment planning analyses with the sourcing of market-based solutions, which may include competitive bidding, to meet near and long-term

customer needs.

"Independent Observer" means the neutral person or entity retained by the electric utility or Commission to monitor the utility's competitive bidding process, and to advise the utility and Commission on matters arising out of the competitive bidding process, as described in Part III.C of the Framework.

~~"IPP"~~"Non-Wires Alternative" means an independent power producer~~electricity grid project that uses non-traditional transmission and distribution (T&D) solutions, such as distributed generation (DG), energy storage, energy efficiency (EE), demand response (DR) and grid software and controls, to defer or avoid the need for conventional transmission and/or distribution infrastructure investments.~~

"Provider" means a System Resource provider that is not subject to the Commission's regulation or jurisdiction as a public utility including, for example, developers and aggregators.

~~"IRP" means an electric utility's Integrated Resource Plan that has been submitted to the Commission for review and approval in the utility's IRP proceeding, in accordance with the Commission's IRP Framework. The overall goal of integrated resource planning is the identification of the resources or the mix of resources for meeting near and long-term customer energy needs in an efficient and reliable manner at the lowest reasonable cost. Each electric utility is responsible for developing an IRP that meets the energy needs of its customers. The IRP Framework requires each electric utility to develop a long-range, twenty (20)-year plan and a medium-range five (5)-year action plan to be submitted on a three (3)-year planning cycle for the Commission's review and approval. The IRP process is a vehicle for the Commission, the electric utilities, energy stakeholders, and the public to understand and influence the planning process involved in identifying and evaluating the mix of demand-side and supply-side energy resources needed to meet near and long-term energy needs in an efficient and reliable manner at the lowest reasonable cost.~~

~~"IRP Framework" means the Commission's Framework for Integrated Resource Planning, dated May 22, 1992, as amended by In re Public Util. Comm'n. Docket No. 05-0075. Decision and Order No. 22490. filed on May 26, 2006.~~

~~"Parallel Plan" means the generating unit plan (comprised of one or multiple generation resources) that is pursued by the electric utility in parallel with a third-party project selected in an RFP until there is reasonable assurance that the third-party project will reach commercial operation, or until such action can no longer be justified to be reasonable. The utility's Parallel Plan unit(s) may be different from that proposed in the utility's bid. The term "utility's bid," as used herein, refers to a utility's proposal advanced in response to a need that is addressed by its RFP.~~

~~"PPA" means a power purchase agreement or contract to purchase firm capacity, energy, or both, from an electric utility, pursuant to the terms of this Framework.~~

"PURPA" means the Federal Public Utility Regulatory Policies Act of 1978, as amended.

"QF" means a cogeneration facility or a small power production facility that is a qualifying

facility under Subpart B of 18 Code of Federal Regulations §§ 292.201 - 292.211. See also 18 Code of Federal Regulations § 291.201(b)(1) (definition of "qualifying facility").

"RFP" means a written request for proposal issued by the electric utility to solicit bids from interested third-parties, and where applicable from the utility or its ~~affiliate~~Affiliate, to supply a future ~~generation resource~~System Resource or a block of ~~generation resources~~System Resources to the utility to meet the utility's Grid Needs pursuant to the competitive bidding process.

"System Resources" are the specific resources that will be acquired to meet the Grid Needs.

II. **CONTEXT FOR COMPETITIVE BIDDING**

A. **USE OF COMPETITIVE BIDDING**

1. This Framework applies to electric utilities regulated by and subject to the Commission's jurisdiction pursuant to Chapter 269, ~~Hawaii~~Hawai'i Revised Statutes and any participants in any competitive bidding process that this Framework is applied to.
- ~~2. A determination shall be made by the Commission in a utility's IRP proceeding as to whether a competitive bidding process shall be used to acquire a future generation resource or a block of generation resources.~~
- ~~3. Competitive bidding, unless otherwise determined by the Commission finds it to be unsuitable, is established as the required mechanism for acquiring a future generation resource or a block of generation resources, whether or not such resource has been identified in a utility's IRP. The basis for such a finding shall be explained by the utility in its IRP, and the determination shall be made by~~
- ~~4.2. the Commission in its review of the utility's IRP. See Part II.C, below.~~System Resources necessary to meet the Grid Needs. The following conditions and possible exceptions apply:
 - ~~a. Competitive bidding will benefit Hawaii~~Hawai'i when it: (i) facilitates an electric utility's acquisition of ~~supply-side resources~~System Resources in a cost-effective and systematic manner; (ii) offers a means by which to acquire new ~~generating resources~~System Resources that are overall lower in cost ~~or~~, better performing or installed sooner than the utility could otherwise achieve;
 - ~~b.a.~~ (iii) does not negatively impact the reliability and resilience or unduly encumber the operation or maintenance of ~~Hawaii's~~Hawai'i's unique island electric systems; (iv) promotes electric utility system reliability by facilitating the timely acquisition of needed ~~generation resources~~System Resources and allowing the utility to adjust to changes in circumstances; ~~and~~(v) is consistent with the IGP process;

and (vi) is consistent with Hawai'i's renewable energy portfolio standards.

~~(v) is consistent with IRP objectives.~~

- ~~e.b.~~ Under certain circumstances, to be considered by the Commission in the context of an electric utility's request for waiver under Part II.A.43, below, competitive bidding may not be appropriate. These circumstances include: (i) when competitive bidding will unduly hinder the ability to add needed generationSystem Resources in a timely fashion; (ii) when the utility -and its customers -will -benefit more if the generation resourceSystem Resource is owned -by -the utility -rather -than -by a third-party (for example, when system reliability or safety will -be- jeopardized by the utilization of a third-party resource); (iii) when more cost-effective or better performing generation resourcesSystem Resources are more likely to be acquired more efficiently through- different procurement processes; or (iv) when competitive bidding will impede or create a disincentive for the achievement of IRPIGP goals, renewable energy portfolio standards or other government objectives and policies, or conflict with requirements of other controlling laws, rules, or regulations.
- ~~d.~~ Other circumstances that could qualify for a waiver include:
~~(i) (but are not limited to): (i) the expansion or repowering of existing utility generating units;~~
- ~~e.c.~~ or other System Resources; (ii) the acquisition of near-term power suppliesSystem Resources for short-term needs; (iii) the acquisition of power from a non-fossil fuel facility (such as a waste-to-energy facility) that is being installed to meet a governmental objective; and (iv) the immediate acquisition of power suppliesSystem Resources needed to respond to an emergency situation; or (v) the lack of a sufficient market to support a competitive procurement.
- ~~f.d.~~ Furthermore, the Commission may waive this Framework or any part thereof upon a showing that the waiver will likely result in the acquisition of a System Resource, leading to a lower cost supply of electricity to the utility's general body of ratepayerscustomers, increase the reliable supplyreliability of electricitya utility's system to the utility's general body of ratepayerscustomers, facilitate the transition to renewable generation, or is otherwise in the public interest.
- ~~g.~~ This Framework does not apply to: (i) the three utility projects currently being developed: Hawaiian Electric Company, Inc.'s Campbell Industrial Park CT-1, Hawaii Electric Light Company, Inc.'s Keahole ST-7, and Maui Electric Company, Ltd.'s Maalaea M-18; (ii) offers to sell energy on an as-available basis by non-fossil fuel producers that were submitted to an electric utility before this Framework was adopted; and (iii) offers to sell firm energy and/or capacity by non-fossil fuel producers that were submitted to an

~~electric utility before this Framework was adopted, or that resulted from negotiations with respect to offers to sell energy on an as-available basis by non-fossil fuel producers that were submitted to an electric utility before this Framework was adopted; provided that negotiations with respect to such firm energy and/or capacity offers are concluded no later than December 31, 2007.~~

- e. ~~This Framework does not apply to any procurements ongoing, any existing programs or tariffs, or any projects submitted for approval to the Commission before this Framework was adopted, such as the Kalaeloa Partners, L.P. 208 MW project (which is the subject of Docket 2011-0351), the Hu Honua Bioenergy, LLC 21.5 MW project (which is the subject of Docket No. 2017-0122), the Puna Geothermal Venture 46 MW project (which is the subject of Docket No. 2019-0333), the Paeahu Solar LLC 15 MW project (which is the subject of Docket No. 2018-0433) and projects selected pursuant to the utility's RFPs for Variable Renewable Dispatchable Generation Paired with Energy Storage (Docket Nos. 2017-0352 and 2019-0178).~~

- h. ~~This Framework also does not apply to: (i) generating units System Resources with respect to: (i) System Resources with a net output available to the utility of 1% of 5 MW or less of a utility's total firm capacity, including that of independent power producers, or with a net output of on the island of O'ahu, 2.5 MW or less, whichever is lower (for systems that cover more than one island (i.e., Maui Electric Company, Ltd.'s system, which has generation on the islands of Maui and Hawai'i, and 250 kW or less on Maui, Molokai, Moloka'i and Lanai), the system firm capacity will be determined on a consolidated basis); (ii) distributed generating units Lāna'i; (ii) System Resources at substations and other sites installed by the utility on a temporary basis to help address reserve margin shortfalls or to enhance resiliency during emergency operations; (iii) customer-sited, utility-owned distributed generating units System Resources that have been approved by the Commission in accordance with the requirements of Decision and Order No. 22248, issued January 27, 2006, as clarified by Order No. 22375, issued April 6, 2006 in Docket No. 03-0371; and ; (iv) renewable energy or new technology generation projects System Resources under 1 MW installed for "proof-of-concept" or demonstration purposes.~~

- i. ~~This Framework also does not apply to qualified facilities and non-fossil fuel producers with respect to: (i) power purchase agreements for as available energy; provided that an electric utility is not required to offer a term for such power purchase agreements that exceeds five years if it has a bidding program that includes as~~

~~available energy facilities; (ii) power purchase agreements for facilities with a net output available to the utility of 2 MW or less; (iii) power purchase agreement; (v) extensions of an Agreement for three years or less on substantially the same terms and conditions as the existing power purchase agreements~~ Agreements and/or on more favorable terms and conditions; ~~(iv) power purchase agreement if it can be demonstrated that the extensions are in the public interest; (vi) modifications of an Agreement to acquire additional firm capacity or firm capacity from an existing facility, or from a facility that is modified without a major air~~

~~j.f.~~ _____ permit modification if it can be demonstrated that the modifications are in the public interest; and ~~(vii)~~ (vii) renegotiations of ~~power purchase agreements~~ Agreements in anticipation of their expiration, approved by the Commission.

~~k.g.~~ _____ When a competitive bidding process will be used to acquire ~~a future generation resource~~ System Resource or a block of ~~generation resources~~ System Resources, the ~~generating units~~ System Resources acquired under a competitive ~~bidding process~~ must meet the needs of the utility in terms of the reliability of the ~~generating unit~~ System Resource, the characteristics of the ~~generating unit~~ System Resource required by the utility, and the control the utility needs to exercise over operation and maintenance of such System Resource in order to reasonably address system integration and safety concerns.

~~5.3.~~ _____ The procedure for seeking a waiver is as follows:

~~a.~~ _____ ~~Applications for waivers, and transition to competitive bidding requirements for new generation projects.~~

~~(i)~~ _____ ~~For all proposed generation projects included in, or consistent with, IRPs approved by the Commission prior to the effective date of this Framework, the electric utility shall file an application for waiver with the Commission, as soon as practicable, consistent with Part II.A.4.identified Grid Needs developed through a(iv), below.~~

~~(ii)~~ _____ ~~For proposed generation projects included in, or consistent with, the IRP filed for Commission approval in In re Hawaiian Elec. Co., Inc., Docket 03-0253, the electric utility shall file any waiver request no later than sixty (60) days following a Commission order approving the IRP.~~

~~b.a.~~ _____ ~~For all proposed generation projects included in, or consistent with, IRPs Grid Needs Assessment that have not yet been filed with the Commission for approval or acceptance as of the effective date of this Framework, and are subject to the Framework pursuant to the~~

terms set forth herein, any waiver request shall accompany the filing of be submitted to the proposed IRP Commission for approval no later than the Commission's time the application for approval of such project is submitted to the Commission.

e.b. An electric utility that seeks a waiver shall take all steps reasonably required to submit its application for waiver as soon as practicable such that, in the event the Commission denies the request, sufficient time remains to conduct competitive bidding without imprudently risking system reliability.

d.c. In no event shall a Commission decision granting a waiver be construed as determinative of whether an electric utility acted prudently in the matter.

d. Proposed projects included in, or consistent with, a Grid Needs Assessment conducted prior to the effective date of this Framework, proposed projects procured under a previously approved or accepted mechanism, or projects being submitted under approved programs and/or tariffs, shall not be required to seek a waiver of this Framework and this Framework shall not apply to such projects.

6.4. Exemption - ownership structure of an electric utility. Upon a showing that an entity has an ownership structure in which there is no substantial difference in economic interests between its owners and its customers, such that the electric utility has no disincentive to pursue new generation projects through competitive bidding, the Commission will exempt such entity from this Framework.

B. SCOPE OF COMPETITIVE BIDDING

1. An electric utility's IRP Grid Needs identified in a Grid Needs Assessment that is reviewed and approved or accepted by the Commission, shall specify/inform the proposed scope of the any RFP, or group of RFPs to be developed for any specific generation resource the identified System Resources to be procured. This Framework defines which System Resource or block of generation resources that the IRP states will be System Resources are subject to competitive bidding.
2. Competitive bidding shall enable the comparison of a wide range of supply-side options, including PPAs, utility self-build options, turnkey arrangements (i.e., build and transfer options), and tolling arrangements where practical System Resource options that are capable individually or as a portfolio of meeting the specific requirements of the RFPs.
3. Each electric utility shall take steps to provide notice of its RFPs, and to encourage participation from a full, range of prospective bidders. PURPA qualifying facilities, IPPs Providers, the host utility, and its

~~affiliates~~Affiliates, and other utilities shall be eligible to participate in any ~~supply side RFP~~RFP seeking System Resources.

4. Competitive bidding processes may vary ~~by resource type~~, provided those processes are consistent with this Framework. ~~For instance, solicitation processes for distributed generation facilities may be different from those for central station generating supplies.~~ An electric utility may establish a separate ~~procurement~~ process (such as a "set ~~aside~~" ~~or side~~" (for example, a special program approved by the Commission, i.e. the Phase 2 Community Based Renewable Energy tariff program for projects under 250 kW)," separate RFP process, or standard form RFP) to acquire ~~as available~~System Resources where such mechanisms or ~~firm capacity from renewable generating facilities~~processes are deemed more suitable to meet IGP objectives.
5. RFP processes shall be flexible, and shall not include unreasonable restrictions on sizes and types of projects considered, taking into account the appropriate ~~sizes and types~~Grid Needs identified in ~~the IRP process~~a Grid Needs Assessment.

C. RELATIONSHIP TO INTEGRATED RESOURCEGRID PLANNING

1. ~~The Commission's IRP Framework~~The Grid Needs Assessment, presented to stakeholders and the Commission for review and comment, shall identify Grid Needs. The identified Grid Needs applicable to each electric utility shall continue to be used to set the strategic direction of resource planning by the electric utilities. In order for competitive bidding to be effectively and efficiently integrated ~~with~~into a utility's ~~IRP~~IGP process, stakeholders must work cooperatively to identify and adhere to appropriate timelines, which may from time to time need to be expedited.
~~cooperatively to identify and adhere to appropriate timelines, which may need to be expedited.~~
2. This ~~Framework~~ ~~is~~ ~~intended~~ ~~to~~ ~~complement~~ ~~the~~ ~~Commission's IRP Framework~~IGP process.
3. A determination shall be made by the Commission ~~in an IRP proceeding~~ as to whether a competitive bidding process shall be used to acquire a ~~generation resource~~System Resource or a block of ~~generation resources~~System Resources that ~~is included~~are identified as Grid Needs in the ~~IRP~~Grid Needs Assessment. Actual competitive bidding for ~~IRP-designated resources~~System Resources will normally occur after the ~~IRP~~ is approved, through an RFP, which is consistent with the IRP Grid Needs are identified, reviewed and accepted or approved by the Commission. ~~However, during the transition into competitive bidding processes for new generation under this Framework, if the IRP in effect was approved prior to the effective date of this Framework, a utility shall initiate competitive bidding (or request a waiver under Part II.A.4) as may be required by this~~

~~Framework. As required by the IRP Framework, such projects must be identified in or consistent with the IRP in effect at the time.~~

4. Integration of competitive bidding into ~~IRP~~ the IGP process. The general approach to integration has four parts, in sequence:
 - a. The electric utility conducts ~~an IRP process, culminating in an IRP that identifies a preferred resource plan (including capacity, energy, timing, technologies, and other preferred attributes). This IRP shall a~~ Grid Needs Assessment, which will identify those ~~resources~~ Grid Needs for which the utility proposes ~~and recommends to hold~~ procure through competitive bidding ~~or other mechanisms or processes~~, and those resources for which the utility seeks a waiver from competitive bidding, ~~and shall include an explanation of the facts supporting a waiver, based on the waiver criteria set forth in Part II.A.3, above.~~
 - b. The Commission accepts, approves, modifies, or rejects the ~~IRP, including any requests for waiver, under the IRP Framework and~~ Grid Needs Assessment and the Grid Needs recommended to be acquired through this Framework.
 - c. The electric utility conducts a competitive bidding process, ~~consistent with the IRP; such process for System Resources to meet all or a portion of the Grid Needs recommended for competitive bidding identified in the Grid Needs Assessment step of the IGP process; such competitive bidding process~~ shall include the advance filing of a draft RFP with the Commission, ~~which shall be consistent with the IRP.~~
 - d. The electric utility selects a winner from the bidders. ~~(But see Part II.C.6, below, concerning the process when there are no bidders worth choosing.)~~
5. An evaluation of bids in a competitive bidding process may reveal desirable projects that were not included in ~~an Approved IRP~~ the Grid Needs identified through the Grid Needs Assessment. These projects may be selected if it can ~~be demonstrated that the project is consistent with an approved or accepted Grid Needs Assessment and that such action is expected to benefit the utility and/or its customers.~~
~~These projects may be selected if it can be demonstrated that the project is consistent with an Approved IRP and that such action is expected to benefit the utility and its ratepayers.~~
6. An evaluation of bids in a competitive bidding process may reveal that the acquisition of any of the ~~resources~~ requested System Resources in the bid will not assist the utility in fulfilling its obligations to its ~~ratepayers~~ customers. In such a case, the utility may determine not to acquire such ~~resources~~ System Resources and shall notify the Commission accordingly. ~~Such notification~~

~~shall include: (a) an explanation of why the competitive bidding process failed to produce a viable project; and
(b) a description of what actions the electric utility intends to take to replace the resource sought through the unsuccessful competitive bidding process.~~

D. MITIGATION OF RISKS ASSOCIATED WITH COMPETITIVE BIDDING

1. To carry out its competitive bidding obligations consistently with its resource sufficiency obligations, the electric utility must conduct, or consider conducting, ~~three~~two types of activities: self-build, ~~parallel planning~~, and contingency planning. The utility's self-build obligation is addressed in Parts VI.A.1, VI.C and ~~VI.CE~~, below. The electric utility's parallel planning and contingency planning activities are discussed in Part II.D.2 to II.D.4, below.
2. In consideration of the isolated nature of the island utility systems, the utility may use a ~~Parallel Plan option to mitigate the risk that an IPP's option may fail. Under this Parallel Plan option, the utility may continue to proceed with its Parallel Plan until it is reasonably certain that the awarded IPP project will reach commercial operation, or until such action can no longer be justified to be reasonable.~~Contingency Plan option to address a near-term reliability or statutory need as results from an actual or expected failure of an RFP process to produce a viable project proposal, or of a project selected in an RFP. The electric utility shall use prudent electric utility practices to determine the nature, amount, and timing of the ~~parallel~~contingency planning activities; and take into account (without limitation) the cost of ~~parallel~~contingency planning and the probability of third-party failure. The electric utility's ~~Parallel~~Contingency Plan ~~unit(s)~~ may differ from that proposed in the electric utility's self-build bid. For each project that is subject to competitive bidding, the electric utility shall submit a report on the cost of ~~parallel~~contingency planning upon the Commission's request.
3. The electric utility may require bidders (subject to the Commission's approval with other elements of a proposed RFP) to offer the utility the option to purchase the project under certain conditions or in the event of default by the seller (i.e., the bidder), subject to commercially reasonable payment terms.
- ~~4. The utility's Contingency Plan need not be the resource identified as the preferred resource in its Approved IRP Plan.~~

III. ROLES IN COMPETITIVE BIDDING

A. ELECTRIC UTILITY

1. The role of the host electric utility in the competitive bidding process shall include:

- a. Designing the solicitation process, establishing evaluation criteria consistent with its overall ~~IRP objectives~~ IGP process, and specifying timelines;
 - b. Designing the RFP documents and proposed forms of PPAs/Agreements and other contracts;
 - c. ~~Implementing and managing the RFP process,~~ including communications with bidders;
 - d. Evaluating the bids received;
 - e. Selecting the bids for negotiations based on established criteria;
 - f. Negotiating contracts with selected bidders;
 - g. Determining, where and when feasible, the interconnection facilities and transmission and distribution upgrades necessary to accommodate new ~~generation~~ System Resources;
 - h. Competing in the solicitation process with a self-build option, ~~unless a waiver is granted at its discretion~~; and
 - ~~i. Providing the Independent Observer with all requested information.~~
- ~~2. In designing each competitive bidding process, each electric utility shall:~~
- ~~a.i. take prudent steps to obtain information on the experiences of similarly situated utilities and utilities that have conducted competitive bidding processes to address similar needs; and (b) take prudent steps to take full advantage of available industry sources of related information to the relevant procurement.~~
- 3.2. Access to Utility Sites. The utility shall consider, on a case-by-case basis before an RFP is issued, offering at its sole discretion one or several utility-owned or controlled sites to bidders in each an applicable competitive bidding process. The utility shall consider such factors as:
- a. The anticipated specific non-technical terms of potential proposals. ~~An example of one factor that will need to be examined is whether benefits will be expected from a "turnkey" project that the utility will or may eventually own and operate.~~
 - b. The feasibility of the installation. Examples of the factors that may need to be examined in order to evaluate the feasibility of the installation may include, but are not be limited to the following:

- (i) Specific physical and technical parameters of anticipated non-utility installations, such as the technology that may be installed, space and land area requirements, topographic, slope and geotechnical constraints, fuel logistics, water requirements, number of site personnel, access requirements, waste and emissions from operations, noise profile, electrical interconnection requirements, and physical profile; and
 - (ii) How the operation, maintenance, and construction of each installation will affect factors such as security at the site, land ownership issues, land use and permit considerations (e.g., compatibility of the proposed development with present and planned land uses), existing and new environmental permits and licenses, impact on operations and maintenance of existing and future facilities, impact to the surrounding community, change in zoning permit conditions, and safety of utility personnel.
- c. The utility's anticipated future use of the site. Examples of why it may be beneficial for the utility to maintain site control may include, but are not limited to the following: (i) to ensure ~~that power generation resources~~System Resources can be constructed to meet system reliability requirements; (ii) to retain flexibility for the utility to perform crucial ~~parallel~~contingency planning for a utility owned option to back-up ~~the any potential~~ unfulfilled commitments, if any, of third-party developers of ~~generation~~System Resources; and (iii) to retain the flexibility for the utility to acquire the unique efficiency gains ~~offrom expansion of existing transmission and distribution facilities or~~ combined-cycle conversions and repowering projects of existing- utility simple-cycle combustion turbines and steam fired generating facilities, respectively.
- d. The effect on competitive forces of denying bidders the ability to use the site, taking into account whether the unavailability of adequate sites for non-utility bidders gives the electric utility a competitive advantage.
- e. Where the utility has chosen not to offer a site to a third-party, the electric utility shall present its reasons, specific to the project and sites at issue, in writing to the Independent Observer and the Commission.
- 4.3. The utility shall submit to the Commission for review and approval (subject to modification if necessary), a Code of Conduct described in Part IV.H.9.c, below, ~~prior to the commencement of any competitive bid process under this Framework with the draft RFP. The utility shall follow the Code of Conduct prior to the commencement of the RFP drafting even while such Code of Conduct is pending before the Commission for review and approval.~~

~~4. HAWAII~~The utility shall ensure third party bidders be provided the same type of information to develop proposals as is provided to those developing self-build or Affiliate-bid proposals.

B. HAWAII PUBLIC UTILITIES COMMISSION

~~1.~~—The primary role of the Commission is to ensure that: (a) each competitive bidding process conducted pursuant to this Framework is fair in its design and implementation so that selection is based on the merits;

~~2.1.~~ projects (b) System Resources selected through competitive bidding processes are consistent with the ~~utility's Approved IRP~~Grid Needs identified in the Commission approved/accepted Grid Needs Assessment; (c) the electric utility's actions represent prudent practices; and (d) throughout the process, the utility's interests are aligned with the public interest even where the utility has dual roles as designer and participant.

~~3.2.~~ The Commission ~~will~~may review, and at its option, approve or modify, each proposed RFP before it is issued, including any proposed form of contracts and other documentation that will accompany the RFP. The Commission may determine in certain applications that it may pre-approve a form RFP in lieu of approving each individual RFP. If a form RFP is approved, any modifications to such form, other than insertion of the specific Grid Needs being procured, would require approval by the Commission.

~~4.3.~~ The Commission shall be the final arbiter of disputes that arise among parties in relation to a utility's competitive bidding process, to the extent described in Part V, below.

~~5.4.~~ The Commission shall review, and approve or reject, the contracts that result from competitive bidding processes conducted pursuant to this Framework, in a separate docket upon application by the utility in which the expedited process in Part III.B.~~87~~ shall not apply. In reviewing such contracts, the Commission may establish review processes that are appropriate to the specific circumstances of each solicitation, including the time constraints that apply to each commercial transaction.

~~6.5.~~ If the utility identifies its self-build ~~or turnkey~~-project for Grid Needs as superior to third party bid proposals, the utility shall seek Commission approval in keeping with established CIP Approval Requirements.

~~7.~~—~~The Commission shall review and approve (and modify if necessary), the electric utility's tariffs for interconnection and transmission upgrades required by Part IV.I of this Framework.~~

8-6. The Commission shall review any complaint that the electric utility is not complying with the Framework, pursuant to Part V.

9-7. Timely Commission review, approval, consent, or other action described in this Framework is essential to the efficient and effective execution of this competitive bidding process. Accordingly, to expedite Commission action in this competitive bidding process, whenever Commission review, approval, consent, or action is required under this Framework, the Commission may do so in an informal expedited process. The Commission hereby authorizes its ~~Chairman~~Chair, or his ~~or her~~ designee (which designee, may be another Commissioner, a member of the Commission staff, Commission hearings officer, or a Commission hired consultant), in consultation with other Commissioners, Commission staff, and the Independent Observer, to take any such action on behalf of the Commission.

C. INDEPENDENT OBSERVER

1. An Independent Observer is required whenever the utility or its ~~affiliate~~Affiliate seeks to advance a project proposal (i.e., in competition with those offered by bidders) in response to a need that is addressed by its RFP, or when the Commission otherwise determines. ~~An~~ Unless otherwise determined by the Commission, an Independent Observer will monitor the competitive bidding process and will report on the progress and results to the Commission, sufficiently early so that the Commission is able to address any defects and allow competitive bidding to occur in time to meet ~~capacity needs:the utility's Grid Needs.~~ Any interaction between a utility and ~~its affiliate~~bidder, including a utility's self-build team or Affiliate during the course of a solicitation process, beginning with the preparation of the RFP, shall be closely monitored by the Independent Observer. Specific tasks to be performed by the Independent Observer shall be identified by the utility in its proposed RFP and as may be required by the Commission.
2. Independent Observer obligations. The Independent Observer will have duties and obligations in two areas: Advisory and Monitoring.
 - a. Advisory. The Independent Observer shall:
 - (i) Certify to the Commission that at each of the following steps, the electric utility's judgments created no unearned advantage for any bidder, or, when applicable, the electric utility or any ~~affiliate~~Affiliate:
 - (1) Pre-qualification criteria;
 - (2) RFP;
 - (3) Model PPA Agreements to be attached to the RFP;
 - (4) Selection criteria;
 - (5) Evaluation of bids; ~~and~~

- (6) Final decision to purchase ~~power~~System Resources or proceed with self-build option- when applicable; and
 - (7) Negotiation of contracts.
 - (ii) Advise the electric utility on its decision-making during, and with respect to, each of the electric utility's actions listed in the preceding item;
 - (iii) Review stakeholder comments submitted in response to draft RFP and model Agreements and advise the utility on the consideration of proposed changes that may improve the process or results of the RFP;
 - ~~(iii)~~(iv) Report immediately to the electric utility's executive in charge of ensuring compliance with this Framework, and the Commission, any deviations from the Framework or violations of any procurement rules;
 - ~~(iv)~~(v) After the electric utility's procurement selection is completed, provide the Commission with:
 - (1) An overall assessment of whether the goals of the RFP were achieved, such goals to include without limitation the attraction of a sufficient number of bidders and the elimination of actual or perceived utility favoritism for its own or an ~~affiliate's~~Affiliate's project; and
 - (2) Recommendations for improving future competitive bidding processes.
 - ~~(v)~~(vi) Be available to the Commission as a witness if required to evaluate a complaint filed against an electric utility for non-compliance with this Framework, or if required in a future ~~rate ease~~regulatory proceeding if questions of prudence arise.
- b. Monitoring. The Independent Observer shall:
- (i) Monitor all steps in a competitive bidding process, beginning ~~with the preparation upon~~ Commission's approval or acceptance of the RFP, ~~or at such earlier time as determined by the~~ CommissionGrid Needs Assessment;
 - (ii) Monitor communications (and communications protocols) with bidders;

- (iii) Monitor adherence to Codes of Conduct;
 - (iv) Monitor contract negotiations with bidders;
 - (v) Monitor all interactions between the electric utility and ~~its affiliate;~~ any bidder during all events affecting a solicitation process, ~~if the affiliate may be a bidder;~~ and
 - (vi) Report to the Commission on monitoring results during each stage of the competitive process, sufficiently early so that the Commission can correct defects or eliminate uncertainties without endangering project milestones.
3. The Independent Observer shall have no decision-making authority, and no obligation to resolve disputes, but may offer to mediate between disputing parties.
4. The Independent Observer shall provide comments and recommendations to the Commission, at the Commission's request, to assist in resolving disputes or in making any required determinations under this Framework.
5. Independent Observer qualifications. The Independent Observer shall be qualified for the tasks the observer must perform. Specifically, the Independent Observer shall:
- a. Be knowledgeable about, or be able rapidly to absorb knowledge about, any unique characteristics and needs of the electric utility;
 - b. Be knowledgeable about the characteristics and needs of small, non-interconnected island electric grids, and be aware of the unique challenges and operational requirements of such systems;
 - c. Have the necessary experience and familiarity with utility modeling capability, transmission and/or distribution system planning, operational characteristics, and other factors that affect project selection;
 - d. Have a working knowledge of common ~~PPA terms and conditions, and the PPA negotiations process~~ operational, technical and contract terms applicable to System Resources as well as appropriate contract negotiation processes applicable to System Resource procurement;
 - e. Be able to work effectively with the electric utility, the Commission, and its staff during the bid process; and
 - f. ~~Be able to demonstrate~~ Demonstrate impartiality.
- ~~6.~~ Selection and contracting. The electric utility or the Commission shall: (a)

identify qualified candidates for the role of Independent Observer (and also shall consider qualified candidates identified by ~~the Commission and~~ prospective participants in the competitive bidding process); (b) seek ~~and obtain~~ Commission and electric utility approval of ~~the~~ final list of qualified candidates; and

~~(a)~~ (c) select an Independent Observer from among the ~~Commission-approved final list of~~ qualified candidates. The ~~electric utility's~~ contract with the Independent Observer shall be acceptable to the electric utility and the Commission, and provide, among other matters, that the Independent Observer: (a) report to the Commission and carry out such tasks as directed by the Commission,

7.6. including the tasks described in this Framework; (b) cannot be terminated and payment cannot be withheld without the consent of the Commission; and (c) can be terminated by the Commission without the utility's consent, if the Commission deems it to be in the public interest in the furtherance of the objectives of this Framework to do so. ~~The utility may recover prudently incurred Independent Observer costs from its customers upon approval of the Commission in a rate case or other appropriate proceeding, and may defer the costs prudently incurred for the Independent Observer (i.e., deferred accounting). In the event the electric utility contracts with the Independent Observer, the utility is allowed to defer prudently incurred Independent Observer costs (included in a deferred debit account), and the balance would be amortized to expense over five years (or a reasonable period determined by the Commission), beginning when rates that reflect such costs are effective (when a separate cost recovery mechanism is effective, or interim or final rates in a general rate case). Carrying charges, based on the utility's allowance for funds used during construction ("AFUDC") rate, would apply monthly for the cost in the deferred debit account and included in the deferred debit account until the onset of amortization. The amortization expense would be included in the utility revenue requirement and the unamortized balance would be included in rate base when there is a general rate case. In the event that a general rate case is replaced by another Commission approved regulatory process or mechanism, the utility may recover prudently incurred Independent Observer costs upon Commission approval through the Commission approved regulatory process or mechanism. Subject to Commission approval, the utility may also recover such costs through the major project interim recovery ("MPIR") adjustment mechanism, Exceptional Project Recovery Mechanism ("EPRM"), renewable energy infrastructure program ("REIP") surcharge or other recovery mechanism until such costs are recovered through effective rates approved in a rate case or other Commission approved regulatory process or mechanism.~~

8.7. As part of the RFP design process, the utility shall develop procedures to be included in the RFP by which any participant in the ~~competitive bidding~~ process may present to the Commission, for ~~review~~ and resolution, positions that differ from those of the Independent Observer (i.e., in the event the Independent Observer makes any representations to the Commission upon which the participant does not agree).

IV. THE REQUEST FOR PROPOSALS PROCESS

A. GENERAL

1. Competitive bidding shall be structured and implemented in a way that facilitates an electric utility's acquisition of ~~supply-side resources~~System Resources identified in a utility's ~~IRP in a cost effective and systematic manner, consistent with state energy policy. All~~Grid Needs Assessment. Direct costs and benefits incurred or received by the utility and its customers shall be taken into account in the bid evaluation and selection process.
2. Competitive bidding shall be structured and implemented in a flexible and efficient manner that promotes electric utility system reliability by facilitating the timely acquisition of needed ~~resources~~System Resources and allowing the utility to adjust to changes in circumstances.
 - a. The implementation of competitive bidding cannot be allowed to negatively impact reliability of the electric utility system.
 - b. The ~~generating units~~System Resources acquired under a competitive bidding process must meet the needs of the utility in terms of the reliability of the ~~generating unit~~System Resources, the characteristics of the ~~generating unit~~System Resources required by the utility, and the control the utility needs to exercise over operation and maintenance in order to minimize system integration concerns.
3. The competitive bidding process shall ensure that proposals and bidders are judged on the merits, without being unduly burdensome to the electric utilities ~~and/or~~ the Commission.
 - a. The competitive bidding process shall include an RFP and supporting documentation by which the utility sets forth the requirements to be fulfilled by bidders and describes the process by which it will: (i) conduct its solicitation; (ii) obtain consistent and accurate information on which to evaluate bids; (iii) implement a consistent and equitable evaluation process; and (iv) systematically document its determinations. The RFP shall also describe the role of the Independent Observer and bidders' opportunities for challenges and for dispute resolution.
 - b. When a utility advances its own project proposal (i.e., in competition with those offered by bidders) or accepts a bid from an ~~affiliate~~Affiliate, the utility shall take all reasonable steps, including any steps required by the Commission, to mitigate concerns over an unfair or unearned competitive advantage that

may exist or reasonably be perceived by other bidders or stakeholders.

4. If ~~an IPP, turnkey, a Provider~~ or ~~affiliate~~Affiliate proposal is selected as a result of the RFP process, one or more contracts are the expected result. Proposed forms of PPAs Agreements and other contracts that may result from the RFP process (~~e.g., PPA for firm capacity, PPA for as available energy, turnkey contract, etc.~~) shall be included with each RFP. The RFP shall specify whether any opportunity exists to propose or negotiate changes to the proposed form of PPA Agreement or contract.

B. DESIGN OF THE COMPETITIVE BIDDING SOLICITATION PROCESS

1. The competitive bidding solicitation process shall include the following:
 - a. Design of the RFP and supporting documents;
 - b. Issuance of the draft and final RFP;
 - c. Development and submission of proposals by bidders;
 - ~~d.~~ e.d. A "multi-stage evaluation process" to reduce bids down to a short list and/or "award group" as appropriate for a particular RFP (i.e., a process that ~~includes~~may include, without limitation: (i) receipt of the proposals; (ii) completeness check; (iii) threshold or minimum requirements evaluation; (iv) initial evaluation ~~including price screen/non-price~~ assessment; (v) selection of a short list; (vi) detailed evaluation or portfolio development; and (vii) selection of final award group for contract negotiation);
 - ~~e.~~ f.e. Contract negotiations (when a third-party bid is selected); and
 - ~~f.~~ g.f. Commission approval of any resulting contract or selected self-build project, if required by the Commission.
2. The RFP shall identify any unique system requirements and provide information regarding the requirements of the utility, important resource attributes, desired options and criteria used for the evaluation. For example, if the utility values dispatchability or operating flexibility, the RFP shall:
 - (a) request that a bidder offer such an option; and
 - (b) explain how the utility will evaluate the impacts of dispatchability or operational flexibility in the bid evaluation process.
3. The RFP (including the response package, proposed forms of PPAs Agreements and other contracts) shall describe the bidding guidelines, the bidding requirements to guide bidders in preparing and submitting their

proposals, the general bid evaluation and selection criteria, the risk factors important to the utility, and, to the extent practicable, the schedule for all steps in the bidding process.

4. The utility may charge bidders a reasonable fee, to be reviewed by the Independent Observer, for participating in the RFP process.
5. Other Content of RFP. The RFP shall also contain:
 - a. ~~Information on the relationship between an electric utility and its affiliate, and the~~The circumstances under which an electric ~~utility's affiliate~~utility and/or its Affiliates may participate;
 - b. An explanation of the procedures by which any person may present to the Commission positions that differ from those of the Independent Observer; and
 - c. A statement that if disputes arise under this Framework, the dispute resolution process established in this Framework will control.
6. The process leading to the distribution of the RFP shall include the following steps (each step to be monitored and reported on by the Independent Observer), unless the Commission modifies this process for a particular competitive bid:
 - a. The utility designs a draft RFP, then files its draft RFP and supporting documentation with the Commission;
 - b. The ~~utility~~Commission holds a ~~technical~~status conference ~~to discuss, where the draft utility presents the details of the RFP with~~and interested parties (which may include potential bidders); ~~are provided the opportunity to ask questions regarding the draft RFP;~~
 - c. Interested parties submit comments on the draft RFP to the utility and the Commission;
 - d. The utility determines, with advice from the Independent Observer, whether and how to incorporate recommendations from interested parties in the draft RFP;
 - e. The utility submits its final, proposed RFP to the Commission for its review and approval (and modification if necessary) according to the following procedure:
 - (i) The Independent Observer shall submit its comments and recommendations to the Commission concerning the RFP and all attachments, simultaneously with the electric

utility's proposed RFP.

- (ii) The utility shall have the right to issue the RFP if the Commission does not direct the utility to do otherwise within thirty (30) days after the Commission receives the proposed RFP and the Independent Observer's comments and recommendations.
7. A pre-qualification requirement is a requirement that a bidder must satisfy to be eligible to bid. A pre-qualification process may be incorporated in the design of some bidding processes, depending on the specific circumstances of the utility and its resource needs. Any pre-qualification requirements shall apply equally to independent bidders, the electric utility's self-build bid, and the bid of any utility's ~~affiliate~~Affiliate.
8. As part of the RFP design process, the utility shall develop and specify the type and form of threshold criteria that will apply to all bidders, including the utility's self-build proposals. Examples of potential threshold criteria include requirements that bidders have site control, maintain a specified credit rating, and demonstrate that their proposed technologies are mature.
- ~~9.~~—The RFP design process shall address credit requirements and security provisions, which apply to: (a) the qualification of bidders; and ~~10.9.~~ (b) bid evaluation processes.
- ~~11.~~10. The utility shall have the discretion to modify the RFP or solicit additional bids from bidders after reviewing the initial bids, provided that such discretion is clearly identified in the RFP and any modification is reviewed by the Independent Observer and submitted to the Commission along with the Independent Observer's comments. The electric utility may issue the modified RFP thirty (30) days after the Commission has received these materials, unless the Commission directs otherwise.
- ~~12.~~11. All involved parties shall plan, collaborate, and endeavor to ~~complete~~issue the final RFP within ninety (90) days from the date the electric utility submits the draft RFP to the Commission.

C. FORMS OF CONTRACTS

1. The RFP shall include proposed forms of PPAsAgreements and other contracts, with commercially reasonable terms and conditions that properly allocate risks among the contracting parties in light of circumstances. The terms and conditions of the contracts shall be specified to the extent practical, so that bidders are aware of, among other things, performance requirements, pricing options, key provisions that affect risk allocation (including those

identified in sub-paragraph 2 below), and provisions that may be subject to negotiation. Where contract provisions are not finalized or provided in advance of RFP issuance (e.g., because certain contract provisions must reflect features of the winning bidder's proposal such as technology or location), the RFP shall so indicate.

2. The provisions of a proposed contract shall address matters such as the following (unless inapplicable): (a) reasonable credit assurance and security requirements appropriate to an island system that reasonably compensates the utility and its customers if the project sponsor fails to perform; (b) contract buyout and project acquisition provisions; (c) in-service date delay and acceleration provisions; and (d) liquidated damage provisions that reflect risks to the utility and its customers.
~~(b) in-service date delay and acceleration provisions; (d) liquidated damage provisions that reflect risks to the utility and its customers; and (e) contractual terms to allow for turnkey options.~~
- ~~3. The proposed contracts may allow the utility the option to request conversion of the plant to an alternate fuel if conditions warrant, with appropriate modifications to the contract to account for the bidder/seller's conversion costs and to assign the benefits of any lower fuel costs.~~
- 4.3. The RFP shall specify which terms in the proposed forms of contract, if any, are not subject to negotiation or alternative proposals, ~~or from which a bidder may request exceptions. For these terms, bidders~~ subject to approval of the RFP by the Commission. Bidders may submit alternative language as part of their bids, provided that any such variation is not inconsistent with any ~~RFP which described the resource at issue~~ identified Grid Needs.

D. ISSUANCE OF THE RFP AND DEVELOPMENT OF PROPOSALS

1. Each electric utility shall take steps to provide notice of its RFPs to, and encourage participation from, the full community of prospective bidders.
2. Bidders may be required to submit a "notice of intent to bid" to the electric utility.
3. The electric utility shall develop and implement a formal process to respond to bidders' questions.
4. The electric utility may conduct a bidders' conference.
5. The electric utility shall provide bidders with access to information through a website where it can post documents and information.
6. The process shall require all third-party bids to be submitted by the deadline specified in the RFP, except that the ~~utility's~~ utility's self-build

bid shall be submitted one day in advance.

7. Bids may be deemed non-conforming if they do not meet the RFP requirements or ~~otherwise~~ provide all of the material information requested in an RFP. At the utility's discretion, in consultation with the Independent Observer, the utility may elect to: (i) consider a non-conforming bid as eligible in the RFP provided it is not inconsistent with any identified Grid Needs; (ii) give proposals that are non-conforming may be given additional time to remedy their non-conformity. The utility, in consultation with the Independent Observer, may; or (iii) decline to consider any bid that is non-conforming.

E. BID EVALUATION / SELECTION CRITERIA

1. The utility, monitored by the Independent Observer, shall compare bids received ~~in response to an RFP to one another and to the utility's self-build project (or the generic resource identified in the IRP, if no self-build project proposal is being advanced).~~
2. The evaluation criteria and the respective weight or consideration given to each such criterion in the bid evaluation process may vary from one RFP to another ~~(depending, for example, on the RFP scope and specific needs of the utility).~~
3. The bid evaluation process shall include consideration of differences between bidders with respect to proposed contract provisions, and differences in anticipated compliance with such provisions, including but not limited to provisions intended to ensure:
 - a. Generating unit~~System Resource~~ and electric system reliability;
 - b. Appropriate risk allocations;
 - c. Counter-party creditworthiness; and
 - d. Bidder qualification.
4. Proposals shall be evaluated based on a consistent and reasonable set of economic and fuel price assumptions, to be specified in the RFP.
5. Both price and non-price evaluation criteria ~~(e.g., externalities and societal impacts, and preferred attributes consistent with the Approved IRP),~~ shall be described in the RFP, and shall be considered in evaluating proposals.
6. In evaluating competing proposals, all relevant incremental costs to the electric utility and its ~~ratepayers~~customers shall be considered ~~(e.g., these,~~ These may include transmission costs, distribution costs and system impacts,

and the reasonably foreseeable balance sheet and related financial impacts of competing proposals).

7. The ~~amount~~ impact of ~~purchased power~~ service(s) from System Resources that a utility already has on its system, in terms of reliability and dispatchability, and the impacts that increasing the amount of ~~purchased power~~ service(s) from new System Resources may have, in terms of reliability and dispatchability, shall be taken into account in ~~the~~ bid evaluation. The RFP shall specify the methodology for considering this effect. Such methodology shall not cause double-counting with the financial effects discussed in sub-paragraph 6, above, and sub-paragraph 8, below.
8. The impact of ~~purchased power~~ System Resource costs on the utility's balance sheets, and the potential for resulting utility credit downgrades (and higher borrowing costs), may be accounted for in the bid evaluation. Where the utility has to restructure its balance sheet and increase the percentage of more costly equity financing in order to offset the impacts of purchasing ~~power~~ service(s) from a third party owned System Resource on its balance sheet, this rebalancing cost shall also be taken into account in evaluating the total cost of a proposal for a new ~~generating unit~~ System Resource if ~~IPP~~ third party owned, and it may be a requirement that bidders provide all information necessary to complete these evaluations. The RFP shall describe the methodology for considering financial effects.
9. The type and form of non-price threshold criteria shall be identified in the RFP. Such threshold criteria may include, among other criteria, the following:
 - a. Project development feasibility criteria (e.g., siting status, ability to finance, environmental permitting status, commercial operation date certainty, engineering design, fuel supply status, bidder experience, participant acquisition strategy, conformance with utility information assurance and security policies and reliability of the technology);
 - b. Project operational viability criteria (e.g., operation and maintenance plan, financial strength, environmental compliance, and environmental impact);
 - c. Operating profile criteria (e.g., dispatching and scheduling, coordination of maintenance, operating profile such as ramp rates, and quick start capability); and
 - d. Flexibility criteria (e.g., in-service date flexibility, expansion capability, contract term, contract buy-out options, fuel flexibility, and stability of the price proposal).
10. The weights for each non-price criterion shall be fully specified by the

utility in advance of the submission of bids, as they may be based on an iterative process that takes into account the relative importance of each criterion given system needs and circumstances in the context of a particular RFP. The Commission, however, may approve of less than full specification prior to issuance of the RFP. Since the subjectivity inherent in non-price criteria creates risk of bias and diminution in bidders' trust of the process, the RFP must specify likely areas of non-price evaluation, and the evaluation process must be closely monitored and publicly reported on by the Independent Observer.

F. EVALUATION OF THE BIDS

1. The evaluation and selection process shall be identified in the RFP, and may vary based on the scope of the RFP. In some RFP processes, a multi-stage evaluation process may be appropriate.
2. The electric utility shall document the evaluation and selection process for each RFP process, for review by the Commission in approving the outcome of the process (i.e., in approving a ~~PPA~~ an Agreement or a utility self-build proposal).
3. A detailed system evaluation process, which uses models and methodologies that are consistent with those used ~~in the utility's IRP processes~~ Grid Needs Assessment, may be used to evaluate bids. In anticipation of such evaluation processes, the RFP shall specify the data required of bidders.

G. CONTRACT NEGOTIATIONS

1. There may be opportunities to negotiate price and non-price terms to enhance the value of the contract for the bidder, the utility, and its ~~ratepayers. Examples of such provisions that may be open for negotiation include fuel supply arrangements and project operating characteristics.~~ customers. Negotiations shall be monitored and reported upon by the Independent Observer.
- ~~2. Contract interaction with affiliates shall be permitted, provided that such interaction is closely monitored by an Independent Observer.~~
- ~~3.2.~~ 3. The electric utility may use competitive negotiations among short-listed bidders.

H. FAIRNESS PROVISIONS AND TRANSPARENCY

1. The competitive bidding process shall judge all bidders on the merits only.
2. During the bidding process, the electric utility shall treat all bidders, including any utility ~~affiliate~~ Affiliate, the same in terms of access to

information, time of receipt of information, and response to questions.

3. A "closed bidding process" is generally anticipated, rather than an "open bidding process." Under one type of closed bidding process, bidders are informed through the RFP of: (a) the process that will be used to evaluate and select proposals; (b) the general bid evaluation and selection criteria; and (c) the proposed forms of PPAs/Agreements and other contracts ~~(e.g., turnkey contract).~~ However, bidders shall not have access to the utility's bid evaluation models, the detailed criteria used to evaluate bids, or information contained in proposals submitted by other bidders. ~~(But see sub-paragraph 4(c), below, regarding a losing bidder's access to the model.)~~
4. If the electric utility chooses to use a closed process:
 - a. The utility shall provide the Independent Observer, if an Independent Observer is required, with all the necessary information to allow the Independent Observer to understand the model and to enable the Independent Observer to observe the entire analysis in order to ensure a fair process; and
 - b. After the utility has selected a bidder, the utility shall meet with the losing bidder or bidders to provide a general assessment of the losing bidder's specific proposal if requested by the losing bidder within seven (7) days of the selection.
5. The host electric utility shall be allowed to consider its own self-bid proposals in response to ~~generation needs~~ Grid Needs identified in its RFP.
6. Procedures shall be developed by the utility prior to the initiation of the bidding process to define the roles of the members of its various project teams, to outline communications processes with bidders, and to address confidentiality of the information provided by bidders. Such procedures shall be submitted in advance to the Independent Observer and the Commission for comment.
7. If the IRPIGP process indicates that a competitive bidding process will be used to acquire a ~~generation resource~~ System Resource or a block of ~~generation resources~~ System Resources to meet all or a portion of the Grid Needs, then the utility will indicate, in the submittal of its draft RFP to the Commission for review, which of the RFP process guidelines will be followed, the reasons why other guidelines will not be followed in whole or in part, and other process steps proposed based on good solicitation practice; provided that the Commission may require that other process steps be followed.

8. If proposed, utility self-build ~~facilities~~projects or other utility-owned ~~facilities (e.g., turnkey facilities),~~projects, or ~~facilities~~projects owned by an ~~affiliate~~Affiliate of the host utility, are to be compared against ~~FP~~third party proposals obtained through an RFP process. The Independent Observer shall monitor the utility's conduct of its RFP process, advise the utility if there are any fairness issues, and report to the Commission at various steps of the process, to the extent prescribed by the Commission. Specific tasks to be performed by the Independent Observer shall be identified by the utility in its proposed RFP: ~~submitted to the Commission for approval.~~ The Independent Observer will review and track the utility's execution of the RFP process to ascertain that no undue preference is given to an ~~affiliate~~Affiliate, the ~~affiliate's~~Affiliate's bid, or to self-build or other utility-owned facilities. The Independent Observer's review shall include, to the extent the Commission or the Independent Observer deems necessary, each of the following steps, in addition to any steps the Commission or Independent Observer may add: (a) reviewing the draft RFP and the utility's evaluation of bids, monitoring communications (and communications protocols) with bidders; (b) monitoring adherence to codes of conduct, and monitoring contract negotiations with bidders; (c) assessing the utility's evaluation of ~~affiliate~~Affiliate bids, and self-build or other utility-owned ~~facilities~~projects; and (d) assessing the utility's evaluation of an appropriate number of other bids. The utility shall provide the Independent Observer with all requested information. Such information may include, without limitation, the utility's evaluation of the unique risks and advantages associated with the utility self-build or other utility-owned ~~facilities~~projects, including the regulatory treatment of construction cost variances (both underages and overages) and costs related ~~to~~ equipment performance, contract terms offered to or required of ~~bidders~~ that affect the allocation of risks, and other risks and advantages of ~~utility self-build or other utility-owned projects to consumers.~~ The Independent Observer may validate the criteria used to evaluate ~~affiliate~~Affiliate bids and self-build or other utility-owned facilities, and the evaluation of ~~affiliate~~Affiliate bids and self-build or other utility-owned facilities. In order to accomplish these tasks, the utility, in conjunction with the Independent Observer, shall propose methods for making fair comparisons (considering both cost and risks) between the utility-owned or self-build facilities and third-party facilities.
9. Where the electric utility is responding to its own RFP, or is accepting bids submitted by its ~~affiliates~~Affiliates, the utility will take additional steps to avoid self-dealing in both fact and perception.
 - a. ~~The following tasks shall be completed~~ ~~as a matter of course~~ (i.e., regardless of whether the utility or its ~~affiliate~~Affiliate is seeking to advance a ~~resource~~ proposal), including: (i) the ~~utility~~ shall develop all bid evaluation criteria, bid selection guidelines, and the quantitative evaluation models and other information necessary for evaluation of bids prior to issuance of the RFP; (ii) the utility shall establish a website for disseminating information to all bidders at the same time; and (iii) the utility shall develop and follow a Procedures

- Manual, which describes: (1) the protocols for communicating ~~with~~ bidders, ~~the self-build team,~~ and others;
- (2) the evaluation process in detail and the methodologies for undertaking the evaluation process; (3) the documentation forms, including ~~logs for any communications with bidders;~~ and
- ~~b.a.~~ (4) other information consistent with the requirements of the solicitation process.
- ~~e.~~ The following tasks shall be completed whenever the utility ~~or its affiliate~~ is seeking to advance a ~~resource~~ System Resource proposal, including:
- ~~(i)~~ (i) the utility shall submit its self-build ~~option to the Commission bid~~ one day in advance of ~~receipt of other bids~~ the deadline specified in the RFP, and provide substantially the same information in its proposal as other bidders;
- ~~d.b.~~ (ii) the utility shall follow the Code of Conduct; and (iii) the utility shall implement appropriate confidentiality agreements prior to the issuance of the RFP to guide the roles and responsibilities of utility personnel.
- ~~e.c.~~ The Code of Conduct shall be signed by each utility employee involved either in advancing the self-build project or implementing the competitive bidding process, and shall require that:
- (i) Whenever staffing and resources permit, the electric utility shall establish internally a separate project team to undertake the evaluation, with no team member having any involvement with the utility self-build option;
 - (ii) During the RFP design and bid evaluation process, there shall be no oral or written contacts between the employees preparing the bid and the electric utility's employees responsible for bid evaluation, other than contacts authorized by the Code of Conduct and the RFP;
 - (iii) Throughout the bidding process, the electric utility shall treat all bidders, including its self-build bid and any electric utility ~~affiliate~~ Affiliate, the same in terms of access to information, time of receipt of information, and response to questions.
- ~~f.d.~~ A company officer, identified to the Independent Observer and the Commission, shall have the written authority and obligation to enforce the Code of Conduct. Such officer shall certify, by affidavit, Code of Conduct compliance by all employees after each competitive process ends.
- ~~g.e.~~ Further steps may be considered, as appropriate, or ordered by the

Commission. _____

10. Where the utility seeks to advance its proposed facilities ~~(i.e., over these in addition to, or instead~~ of other ~~developers who may submit developers'~~ bids in its RFP), its proposal must satisfy all the criteria applicable to non-utility bidders, including but not limited to providing all material information required by the RFP, and being capable of implementation.
11. Bids submitted by ~~affiliates~~Affiliates shall be held to the same contractual and other standards as projects advanced by other bidders.

I. TRANSMISSION INTERCONNECTION AND UPGRADES

1. A winning bidder has the right to interconnect its ~~generation~~System Resource to the electric utility's transmission and distribution system, and to have that transmission and distribution upgraded as necessary to accommodate the output of its ~~generation~~System Resource.
2. With respect to procedures and methodologies for:
 - a. Designing interconnections;
 - b. Allocating the cost of interconnections;
 - c. Scheduling and carrying out the physical implementation of interconnections;
 - d. Identifying the need for transmission and distribution upgrades;
 - e. Allocating the cost of transmission and distribution upgrades; and
 - f. Scheduling and carrying out the physical implementation of transmission and distribution upgrades;

the electric utility shall treat all bidders, including its own bid and that of any ~~affiliate~~Affiliate, in a comparable manner.

3. Upon the request of a prospective bidder, the electric utility shall provide general information about the possible interconnection and transmission and distribution upgrade costs associated with project locations under consideration by the bidder.
- ~~4. In a compliance filing to be made within ninety days after issuance of this Framework, the electric utility shall submit a proposed tariff containing procedures for interconnection and transmission upgrades, to~~

~~ensure comparable treatment among bidders including any electric utility or electric utility affiliate bid. This submission shall contain at least the following elements:~~

- ~~a. A formal queuing process that ensures nondiscriminatory, auditable treatment of all requests for interconnection, upgrades and studies thereof;~~
- ~~b. A means, if practical, of minimizing the cost of studies by bundling different requests into a single study;~~
- ~~c. A methodology for allocating the costs of interconnection and transmission upgrades between the electric utility and the generator; and~~
- ~~d. A process for obtaining information on current capacity, operations, maintenance and expansion plans relating to the transmission and distribution systems.~~

5.4. To ensure comparable treatment, the Independent Observer shall review and monitor the electric utility's policies, methods and implementation and report to the Commission.

V. DISPUTE RESOLUTION PROCESS

The Commission will serve as an arbiter of last resort, after the utility, Independent Observer, and bidders have attempted to resolve any dispute or pending issue. The Commission will use an informal expedited process to resolve the dispute within thirty (30) days, as described in Part III.B.8-7. There shall be no right to hearing or appeal from this informal expedited dispute resolution process. The Commission encourages affected parties to seek to work cooperatively to resolve any dispute or pending issue, perhaps with the assistance of an Independent Observer, who may offer to mediate but who has no decision-making authority. The utility and Independent Observer shall conduct informational meetings with the Commission and

Consumer Advocate to keep each apprised of issues that arise between or among the parties.

VI. PARTICIPATION BY THE HOST UTILITY

A. Where the electric utility is addressing a ~~need for firm capacity in order to address system reliability issues or concerns;~~system reliability issue or statutory requirement, the utility shall develop one or more project proposals that are responsive to the System Resource need identified in the RFP.

~~1. In general, the utility shall develop a project proposal that is responsive~~

~~to the resource need identified in the RFP. The proposal shall represent the utility's best ("self-build" or "utility-owned") response to that need in terms of foreseeable costs and other project characteristics.~~

- B. If the utility opts not to ~~advance~~propose its own project ~~(i.e., over those of other developers),~~ the utility shall request and obtain the Commission's approval. In making this request, the utility: shall demonstrate why relying on the market to provide the needed resource is prudent.
- ~~a. Shall demonstrate why relying on the market to provide the needed resource is prudent, and such demonstration shall include evidence of the number of viable sellers the utility expects will compete;~~
 - ~~b. Shall develop a Contingency Plan to respond in a reasonable timeframe if the competitive bidding process unexpectedly fails to produce a viable project proposal; and~~
 - ~~e. If necessary, shall identify a Parallel Plan that is capable of being implemented, to the extent feasible, after an appropriate amount of planning, which may or may not be the supply-side resource or resources in the Approved IRP.~~
- C. Where the RFP process has as its focus something other than a reliability-based need, the utility may choose (or decline) to advance its own project proposal either in the form of a self-build or utility-owned project.
- D. If the RFP process results in the selection of non-utility (or third-party) projects to meet a system reliability need or statutory requirement, the utility shall develop and periodically update its~~a~~ Contingency Plan and, if necessary, its Parallel Plan to address the risk that the third-party projects may be delayed or not completed. ~~When submitting the RFP to the Commission~~In this situation, the electric utility shall separately submit, to the extent practical, a description of such activities and a schedule for carrying them out. Such description shall be updated as appropriate.
- 1. The plans may include the identification of milestones for such projects, and possible steps to be taken if the milestones are not met.
 - 2. Pursuant to the plans, it may be appropriate for the utility to proceed to develop a ~~self-build or~~ utility-owned project or projects until such action can no longer be justified as reasonable. The self-build or utility-owned project(s) may differ from the project(s) advanced by the utility in the RFP process, or the resource(s) identified in its Approved IRP PlanGrid Needs Assessment.
 - 3. The contracts developed for the RFP process to acquire third-party

resources shall include commercially reasonable provisions that address delays or non-completion of third-party projects, such as provisions that identify milestones for the projects, seller (i.e., bidder) obligations, and utility remedies if the milestones are not met, and may include provisions to provide the utility with the option to purchase the project under certain circumstances or events of default by the seller (i.e., the bidder).

~~E. A utility shall not advance mutually exclusive projects in response to an identified need.~~

E. A utility may submit more than one proposal or may supply options for a specific proposal as dictated by the RFP needs, such as submitting variations of a proposal and/or offering options in a proposal.

VII. RATEMAKING

A. The costs that an electric utility reasonably and prudently incurs in designing and administering its competitive bidding processes are recoverable through rates to the extent reasonable and prudent.

B. The costs that an electric utility incurs in taking reasonable and prudent steps to implement ~~Parallel Plans and~~ Contingency Plans are recoverable through the utility's rates, to the extent reasonable and prudent, as part of the cost of providing reliable service to customers _____.

C. The reasonable and prudent capital costs that are part of an electric utility's ~~Parallel Plans and~~ Contingency Plans shall be accounted for similar to costs for planning other capital projects (provided that such accounting treatment shall not be determinative of ratemaking treatment):

1. Such costs would be accumulated as construction work in progress, and ~~carrying costs~~ AFUDC would accrue on such costs. ~~If the Parallel Plans or~~ Contingency Plans, as implemented, result in the addition of planned resources to the utility system, then the costs incurred and ~~accrued carrying charges~~ related AFUDC would be capitalized as part of the installed resources (i.e., recorded to plant-in-service) and added to rate base. ~~The costs would be depreciated over the life of the resource addition.~~

2. If implementation of the ~~Parallel Plans or~~ Contingency Plans is terminated before the resources identified in such plans are placed into service, the costs incurred and ~~accrued carrying charges~~ related AFUDC included in construction work in progress would be transferred to a miscellaneous deferred debit account and the balance would be amortized to expense over five years (or a reasonable period determined by the Commission), beginning when ~~the base plan resource is placed into service. The amortization expense would be included in the utility's~~

revenue requirement when there is a general rate case. Under appropriate circumstances, the Commission may allow additional carrying costs to accrue on the unamortized miscellaneous deferred balance rates that reflect such amortization expense are effective (when a separate cost recovery mechanism is effective, or interim or final rates in a general rate case). Carrying charges, based on the AFUDC rate, would apply monthly for the costs in the miscellaneous deferred debit account and included in the miscellaneous deferred debit account until the onset of amortization. The amortization expense would be included in the utility's revenue requirement and the unamortized balance would be included in the utility's rate base. In the event that a general rate case is replaced by another Commission approved regulatory process or mechanism, the utility may recover prudently incurred costs of the Contingency Plans upon Commission approval through the Commission approved regulatory process or mechanism. Subject to Commission approval, the utility may also recover such costs through the EPRM or MPIR adjustment mechanism, REIP surcharge or other recovery mechanism until such costs are recovered through effective rates approved in a rate case or other Commission approved regulatory process or mechanism.

- D. The regulatory treatment of utility-owned or self-build facilities projects will be cost-based, consistent with traditional cost-of-service ratemaking, wherein prudently incurred capital costs including associated AFUDC and/or carrying costs are included in rate base; provided that the evaluation of the utility's bid must account for the possibility that the capital or running operational costs actually incurred, and recovered from ratepayers/customers, over the plant's/project's lifetime, will vary from the levels assumed in the utility's bid. The utility will not, however, be allowed to recover any capital costs that exceed the bid amount. Any utility-owned project selected pursuant to the RFP process will remain subject to prudence review in a subsequent rate proceeding with respect to the utility's obligation to prudently implement, construct or manage the project consistent with the objective of providing reliable service at the lowest reasonable cost. Subject to Commission approval, the utility-owned or self-build project costs, including operations and maintenance expenses, deferred costs, and taxes, may also be recovered through the EPRM or MPIR adjustment mechanism, REIP surcharge or other recovery mechanism, until such costs are recovered in base rates.

VIII. QUALIFYING FACILITIES

- A. For any resource to which the competitive bidding requirement does not apply (due to waiver or exemption), the utility retains its traditional obligation to offer to purchase capacity and energy from a QF at avoided cost upon reasonable terms and conditions approved by the Commission.
- B. For any resource to which the competitive bidding requirement does apply, the

utility shall ~~apply to the commission to waive or modify the time~~ periods described in Hawaii Administrative Rules § 6-74-1S(c) (1998) for the utility to ~~negotiate with a QF pursuant to the applicable provisions of~~ Hawaii Administrative Rules § 6-74-1S(c) (1998), and upon approval of the ~~commission~~Commission, the utility's obligation to negotiate with a QF shall be deferred pending completion of the competitive bidding process.

1. If a non-QF is the winning bidder:
 - a. A QF will have no PURPA right to supply the resource provided by a non-QF winning bidder.
 - b. If a non-QF winner does not supply all the capacity needed by the utility, or if a need develops between RFPs that will not be satisfied by an RFP due to a waiver or exemption, a QF, upon submitting a viable offer, is permitted to exercise its PURPA rights to sell at avoided cost. The commission's~~Commission's~~ determination of avoided cost will be bounded by the price level established by the winning non-QF.
2. Where the winning bidder is the utility's self-build option, a QF will not have a PURPA right to supply the resource provided by the utility's self-build option.
3. If a QF is the winning bidder, the QF has the right to sell to the electric utility at its bid price, unless the price is modified in the contract negotiations that are part of the bidding process.

EXHIBIT 4

CBF Change Summary Table

SECTION (original)	TOPIC	OUTCOME
I. Definitions		
Affiliate	The original framework did not properly define Affiliate and Self-Build teams and describe the differences between them.	Affiliate definition added and sections were re-worded to make clear of the distinction between the two teams.
Contingency Plan	<p>The definitions and applications of Contingency Plan and Parallel Plan were confusing to both the Company and CPWG. What were the differences? How were they being used in practice? Are both necessary?</p> <p>There was a recommendation to add an example for “statutory need.”</p> <p>There was a question as to why “non-wires alternative” was included.</p> <p>Clarification needed to show that the Contingency Plan may also be used in case a selected project in the RFP fails to reach completion or is delayed.</p>	<p>It was decided by both the Company and CPWG to remove the concept of Parallel Plan while modifying the Contingency Plan definition to incorporate Parallel Plan concepts.</p> <p>Added “for example, the need to comply with reliability standards as discussed in Hawai‘i Revised Statutes (“HRS”) §§ 269-0141 through 269-0144 and with the State of Hawaii’s Renewable Portfolio Standards law, as codified in HRS §§ 269-91 through 269-95”</p> <p>“non-wires alternative” was deleted as it is already covered under the Contingency Plan definition.</p> <p>Definition updated to reflect this clarification.</p>
Grid Needs	<p>A new term was needed to identify the needs of the grid, which was determined in the Grid Needs Assessment. It replaces the terms IRP and Capacity Needs in the new IGP format.</p> <p>Clarification needed to show that the Grid Needs are focused on the grid services that come out of the Grid Needs Assessment which are approved by the Commission, and does not encompass utility equipment normally procured through the utility’s standard procurement process.</p>	<p>Creation of the term “Grid Needs” - the specific grid services (including but not limited to capacity, energy and ancillary services) identified in the Grid Needs Assessment, including transmission and distribution system needs that may be addressed through a Non-Wires Alternative.</p> <p>Added to the definition - Grid Needs that are subject to the Framework generally does not apply to utility equipment (i.e., transmission and distribution infrastructure, flexible AC transmission devices, materials, etc.) that are normally procured through</p>

		the utility’s procurement process for goods and services.
Grid Needs Assessment	A new term was needed to describe the three needs assessments performed prior to the 2 nd PUC Review Point, as can be seen in the Sourcing Approach Diagram.	Creation of the term “Grid Needs Assessment” - the process step in the IGP where the technical analyses are conducted to determine the generation, transmission, and distribution grid service(s) needs to meet state policy objectives, reliability standards, among other goals, and presented to the Commission for review and approval.
Non-Wires Alternative	A new term was needed to describe projects that either deferred costs or avoided the need for conventional transmission and/or distribution infrastructure investments. This term was not used in the old version of the CBF.	Creation of the term “Non-Wires Alternative” - an electricity grid project that uses non-traditional transmission and distribution (T&D) solutions, such as distributed generation (DG), energy storage, energy efficiency (EE), demand response (DR) and grid software and controls, to defer or avoid the need for conventional transmission and/or distribution infrastructure investments.
System Resources	A new term was needed to describe the types of resources that make up the Grid Needs. It replaces the terms Generation, Generation Resources and Supply Side Resources in the new IGP CBF format.	Creation of the term “System Resources” - the specific resources that will be acquired to meet the Grid Needs.
	Deleted Approved IRP, IRP, IRP Framework; Added IGP or Integrated Grid Planning	Defined terms updated to reflect the IGP process replacing the IRP framework
	Deleted Parallel Plan	Removed for clarity, covered now by Contingency Plan
	Deleted PPA, Added Agreement	“Agreement” replaces “PPA”, broadening definition
	Deleted IPP, Added Provider	“Provider” replaces “IPP”, broadening definition
	Modified Code of Conduct, Competitive Bid, RFP	Definitions updated to incorporate newly defined terms
	Modified Independent Observer	Updated to include that the Commission may also retain the IO
II. Context For Competitive Bidding, A. Use of Competitive Bidding		
II.A.2	CBF states that a determination shall be made by the Commission in a IRP proceeding as to whether a competitive bidding process shall be used to acquire resources.	This paragraph was deleted as this determination will fall in the 2 nd PUC review point as shown in the IGP Sourcing Approach Diagram, which is outside the scope of the CBF.

II.A.2.f	(v) and (vi): A question was asked if there should be a standard that shows these extensions and modifications are in the public interest.	Language added to reflect this standard, namely, if it can be demonstrated that the modifications are in the public interest.
II.A.3.c	The determination that came out of the IGP Soft Launch RFP was that there was a lack of a sufficient market to support a competitive procurement.	Based on these findings, a waiver was inserted for such a circumstance.
II.A.3.f.(i)	The Framework does not apply to generating units with a net output available to the utility of 1% or less of a utility's total firm capacity or with a net output of 5MW or less, whichever is lower. Although this may have been a good threshold in the past, it was said in the CPWG that it could be updated to better accommodate current practices.	The 1% or less of a utility's total firm capacity has been deleted. Additionally, the CBF dissects the net output requirement for each island, namely 5MW or less for Oahu, 2.5MW or less for Maui, Hawaii, and 250kW or less for Molokai and Lanai.
II.A.3.f.(ii)	The Framework does not apply to distributed generating units at substations and other sites installed by the utility on a temporary basis to help address reserve margin shortfalls. It was believed that the CBF should also include circumstances that enhance resiliency during emergency operations.	Additional language was added to this paragraph. For example, the procurement of distributed generating units to power substations post-natural disaster.
II.A.3.g	Original section covered renewable energy facilities and qualified facilities	Removed this section; combined remaining provisions with II.A.3.f.
II. Context For Competitive Bidding, B. Scope of Competitive Bidding		
II.B.2	"Turnkey" projects are viewed as no longer applicable under the new CBF.	All reference to "turnkey" projects have been deleted.
II. Relationship to Integrated Grid Planning		
II.C.4.b	There was a question as to whether the Commission would also approve the Grid Needs that come out of the Grid Needs Assessment.	Language was added that to reflect that the Commission approves the Grid Needs Assessment as well as the Grid Needs that come out of the Assessment.
II.C.4.c	1/26 Update Clarification on the System Resources to meet the Grid Needs.	1/26 Update Language was added to show " System Resources to meet all or a portion of the Grid Needs recommended for competitive bidding... "
II.C.5	There was a concern about projects that were recognized by the Company as desirable could be selected at the Company's discretion, thereby skirting the RFP Process.	This Section was updated with language that states the project is also to be consistent with an Approved Grid Needs Assessment.

II. Context For Competitive Bidding, D. Mitigation of Risks Associated with Competitive Bidding	
II.D (general)	<p>The definitions and applications of Contingency Plan and Parallel Plan were confusing. What were the differences? How were they being used in practice? Are both necessary?</p> <p>It was decided to remove Parallel Plan from the CBF while modifying the Contingency Plan definition to incorporate Parallel Plan concepts.</p>
III. Roles in Competitive Bidding, A. Electric Utility	
III.A.1.g	<p>The CBF states that in addition to the utility determining, where and when feasible, the interconnection facilities and T&D upgrades necessary. A suggestion was made to add in language to establish an obligation of the utility to strive to find the lowest interconnection solution cost and for the utility to strive for the lowest possible cost while maintaining reliability.</p> <p>Although the Company understands the stakeholder's concerns, it was felt that it would be better addressed in a different venue, specifically the RFP. This allows flexibility to change the process without having to revise the CBF when a new option is proposed. The Company proposes instead that the process for determining interconnection costs can be discussed in individual dockets and tailored to best meet the needs of each solicitation every time. For example the Company recently proposed to have the Company pay interconnection costs and seek separate recovery for such costs for the CBRE Low-to-Moderate Income RFPs.</p>
III.A.1.h	<p>CBF states that the utility will compete in solicitation processes with a self-build option, unless a waiver is granted. Company felt that while this may have been appropriate in the past (ex. for firm capacity purposes), it does not fit with our current business model when it comes to non-traditional transmission and distribution solutions.</p> <p>CPWG proposed modification that the <u>utility will compete in competitive solicitation process with a self-build option at its discretion.</u></p>
III.A.4	<p>CBF states that the utility will submit a Code of Conduct to the Commission for review and approval prior to the commencement of any competitive bid process. Company felt that this could be modified to reflect a more realistic process that the Company and Commission could follow based on lessons learned from previous experiences.</p> <p>CPWG proposed modification stating that the <u>utility will submit a Code of Conduct with the draft RFP. The utility will follow the Code prior to commencement of the RFP drafting even while the Code is pending before the Commission for review and approval.</u></p>
III.A.5	<p>A suggestion was made to insert a new paragraph which states that the utility shall make available to all bidders sufficient technical information on the System to enable bidders to propose diverse projects.</p> <p>As this is addressed in other areas of the CBF (all bidders being treated equally), the language was not added.</p>

III. Roles in Competitive Bidding, B. Hawaii Public Utilities Commission	
III.B.2	<p>It was thought that for some smaller, recurring types of RFPs, it would be more efficient if the Company could develop and submit to the Commission for approval a form RFP. If approved by the Commission, the Company would be able to simply insert the Grid Needs that were approved by the Commission into the RFP and more quickly begin the competitive bidding process.</p>
III.B.4	<p>A suggestion was made that there should be a requirement for the Commission/IO to rule on whether a project is cost-effective or not, or whether it is prudent. The thought was that having an independent third-party review the technical requirements could lead to lower interconnection costs.</p>
III.B.6	<p>This section is no longer relevant as it relates to updating tariffs.</p>
III. Roles in Competitive Bidding, C. Independent Observer	
III.C.2.a	<p>A suggestion was made that said it was important to note in the IO's duties and obligations that the IO shall <u>review stakeholder comments submitted in response to draft RFP and model Agreements and advise the utility on the consideration of proposed changes.</u></p>
III.C.2.b.i	<p>The CBF states that the IO's duties begin with the preparation of the RFP or at an earlier time as determined by the Commission. This will change when the IGP process is implemented, as can be seen when looking at the Sourcing Approach Diagram.</p>
	<p>This concept was inserted stating that <u>the Commission may determine in certain applications that it may pre-approve a form RFP in lieu of approving each individual RFP, if modifications are limited to the insertion of the specific Grid Needs being procured.</u> For example, in order to streamline the NWA process, it may be prudent to have a form RFP for NWAs which standardizes RFP requirements except for the specific MW/MWHs of the identified grid need. The duration of the NWA process, including the regulatory process, was identified as a bottleneck in other jurisdictions during DPWG discussions.</p>
	<p>This was not included in the CBF. Some reasons set forth were that 1) it could leave out other projects that could provide other system needs, or 2) possible issues could arise if the utility and the bidder deem the costs okay but the independent third-party doesn't. It would be better to leave this to each individual RFP where the procedure for determining interconnection requirements could be tailored appropriately to the solicitation.</p>
	<p>Removed this section.</p>
	<p>The modification has been incorporated into the CBF. It is a reflection of the current practice.</p>
	<p>CBF has been modified to show the starting point of the IO's duties <u>upon Commission approval or acceptance of the Grid Needs Assessment.</u></p>

III.C.6	<p>CBF states that it is the utility’s duty to select and contract with an IO for a RFP. However, the Commission has also taken up this responsibility.</p> <p>Commission Docket No. 2018-0088, Decision and Order No. 37507 dated 12/23/20, Exceptional Project Recovery Mechanism (“EPRM”) guidelines are replacing Major Project Interim Recovery (“MPIR”) guidelines for projects moving forward, while current projects are grandfathered in under MPIR.</p>	<p>This provision was updated to allow either the Company or Commission to be able to select and contract with an IO. Additionally, language has also been included to cover, with respect to instances where the Company contracts with the IO, how the Company can recover such IO costs.</p> <p>Additional language was added to cover instances where a general rate case is replaced by another Commission approved regulatory process or mechanism.</p> <p>Exceptional Project Recovery Mechanism (“EPRM”) has been added here, and elsewhere in this document, where MPIR is referenced.</p>
IV. The Request for Proposals Process, A. General		
IV.A.3	<p>There was a proposed addition of “bidders” with respect to avoiding undue burden during the bidding process.</p>	<p>The change was not incorporated as this paragraph is about ensuring proposals and bidders are being judged on merits, and therefore it was felt it was best to leave “bidders” out. Additionally, discussion indicated that the Stakeholder’s concerns were tied to challenges associated with the current interconnection costs/process.</p>
IV. The Request for Proposals Process, B. Design of the Competitive Bidding Solicitation Process		
IV.B.6	<p>Stakeholder request to clarify when consultation for non-conforming bid occurs.</p>	<p>Changes not incorporated. There was a thought to add form RFP language here but not sure this is the proper location for it. However, the utility feels that as long as only technical specifications are added/modified, there should be no need to go back thru the review process. Commission and stakeholders would have time to review the form RFP before it is finalized.</p>
IV.B.6.b	<p>With recent RFPs, the Commission has been holding status conferences in place of the Company technical conferences. The Company also feels that this is a way to streamline the RFP process.</p>	<p>The CBF has been updated to reflect this change.</p>
IV.B.7	<p>It was suggested to add more detailed language concerning prequalification requirement.</p>	<p>No new language incorporated as the utility has the ability to incorporate pre-qualification requirements into an RFP if the right opportunity arises.</p>

IV. The Request for Proposals Process, C. Forms of Contracts	
IV.C.3	<p>Section pertains to Agreements including provisions allowing for the utility to request conversion of a plant to alternative fuel</p> <p>Deleted, as language more appropriate for RFP</p>
IV. The Request for Proposals Process, D. Issuance of the RFP and Development of Proposals	
IV.D.6	<p>The Company proposed removing the requirement that utility's self-build bid shall be submitted one day in advance, given that 1) the third party software used does not allow any visibility of bid materials before due date and 2) the additional burden of work for RFP team to ensure that self-build bid submitted one day in advance</p> <p>Change not accepted, current language retained. Discussion with Stakeholders made apparent that despite the access restrictions provided by the third-party software, bidder perception would remain problematic and outweigh the burden of additional work entailed. Similar language was retained in IV.H.9.a</p>
IV.D.7	<p>Proposed language was set forth allowing the utility to consider a non-conforming bid as eligible in the RFP provided it is not inconsistent with any identified Grid Needs</p> <p>Language added.</p>
IV.D.7	<p>There was a concern about the sentence structure and also as it appeared the Company could deem a Bid non-conforming based on a Bidder not providing information requested in a RFP.</p> <p>The language has been updated per discussions with CPWG to address the sentence structure and also to state that the Company could deem a Bid non-conforming based on a Bidder not providing all of the material information requested in a RFP.</p>
IV. The Request for Proposals Process, E. Bid Evaluations/Selection Criteria	
IV.E.4	<p>There was a suggestion to add GHG emissions as an evaluation criteria which would be reflected in the Framework language. It was believed that developers would be open to sharing information and that the climate price must be considered.</p> <p>The change was not incorporated as this is already covered in IV.E.5 and also to avoid the CBF becoming too prescriptive. It was felt that it would be better addressed in the RFPs itself.</p>
IV.E.6	<p>There was a suggestion that, in addition to incremental costs, "non-financial impacts" also should be considered when evaluating proposals.</p> <p>The change was not incorporated as this is already covered in IV.E.5.</p>
IV.E.6	<p>Additionally, there was a request to add a paragraph on price adjustment mechanisms.</p> <p>The change was not incorporated as the Company has the ability to utilize such mechanisms, such as in the Stage 1 RFPs.</p>
IV. The Request for Proposals Process, G. Contract Negotiations	

IV.G.1	There was a proposal to add language that negotiations may include technical changes—suggesting to allow space for revision to bids by allowing mid-stream negotiations to reduce bid price and improve results	The change was not incorporated, as it is not believed that this will work as proposals are evaluated on its technical merits.
IV. The Request for Proposals Process, H. Fairness Provisions and Transparency		
IV.H.9	The Company proposed removing the requirement that utility's self-build bid shall be submitted one day in advance, given that 1) the third party software used does not allow any visibility of bid materials before due date and 2) the additional burden of work for RFP team to ensure that self-build bid submitted one day in advance	Change not accepted, current language retained. Discussion with Stakeholders made apparent that despite the access restrictions provided by the third-party software, bidder perception would remain problematic and outweigh the burden of additional work entailed. Similar language was retained in IV.D.6
IV. The Request for Proposals Process, I. Transmission Interaction and Upgrades		
IV.I.1	References to "transmission" in the Framework should encompass the transmission and distribution system	References throughout the Framework have been updated to "transmission and distribution," where appropriate
IV.I.3	Stakeholder request to include a paragraph that provides an incentive to optimize interconnection costs and shared savings.	Change not incorporated as the Framework shouldn't be prescriptive. However, it allows for something like this without saying the method or timeframe. For example see the Company's proposal in its CBRE Low-to-moderate income RFPs.
IV.I.4	Determination that Rule 19 does not need to be in Framework	Paragraph deleted
VI. Participation by the Host Utility		
VI	The defined term "Parallel Plan" has been deleted.	Section updated to align with removal of the parallel plan with the Contingency Plan definition to incorporate Parallel Plan concepts
VI.D	A question was asked about including a need for firm capacity resources.	Company clarified that this section does not preclude such resources
VI.E	There was some confusion on what the intent of this Section.	This Section has been updated per discussions with CPWG, namely that the Company can submit one or more proposals with variations and/or options.
VII. Ratemaking		
VII	Impact of removal of Parallel Plan from CBF.	Section VII updated to remove references to Parallel Plan.

<p>VII.C</p>	<p>A question was raised about whether the current Framework covers contingency plan termination capital cost amortization.</p>	<p>VII.C.2 was expanded to provide such coverage. Additional language was added to cover instances where a general rate case is replaced by another Commission approved regulatory process or mechanism.</p>
<p>VII.D</p>	<p>A suggestion was made to include language saying that the utility should not be allowed to recover any capital costs that exceed the bid amount. Clarification needed on what type of project costs can be recovered.</p>	<p>The language was incorporated into the section. Language was added to identify operations and maintenance expenses, deferred costs, and taxes.</p>

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